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No. 48] NEW DELHI, SATURDAY, NOVEMBER 30, 1991/AGRAHAYANA 9, 1913

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India (other than
the Ministry of Defence)

वित्त मंत्रालय
(राजस्व विभाग)

आदेश
स्टाम्प

नई दिल्ली, 11 नवम्बर, 1991

MINISTRY OF FINANCE
(Department of Revenue)

ORDER
STAMPS

New Delhi, the 11th November, 1991

का. आ. 2939.—भारतीय स्टाम्प अधिनियम, 1899
(1899 का 2) की धारा 9 की उपधारा (1) के खंड
(क) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय
सरकार एतद्वारा उस शुल्क को माफ करती है जो राष्ट्रीय
आवास बैंक, नई दिल्ली द्वारा जारी किये जाने वाले केवल
साठ करोड़ रुपये के कुल मूल्य के एक-एक लाख रुपये
के अंकित मूल्य के 11.5% राष्ट्रीय आवास बैंक
बन्धन, 2009 (द्वितीय श्रृंखला) के रूप में वर्णित प्रोमेसरी
नोट पर उक्त अधिनियम के अंतर्गत प्रभाय है।

[सं. 44/91—स्टाम्प—पत्र सं. 33/79/90—वि. क.]

आत्मा राम, अवर सचिव

S.O. 2939.—In exercise of the powers conferred by clause
(a) of sub-section (1) of section 9 of the Indian Stamp Act,
1899 (2 of 1899), the Central Government hereby remits the
duty with which the bonds in the nature of promissory notes
described as 11.5 per cent National Housing Bank Bonds, 2009
(Second Series) of the face value of rupees one lakh each of
the aggregate value of rupees sixty crores only to be issued
by National Bank, New Delhi are chargeable under the said
Act.

[No. 44/91-Stamps—F. No. 33/79/90-ST]

ATMA RAM, Under Secy.

(4539)

(व्यय विभाग)

नई दिल्ली, 11 नवम्बर, 1991

का. आ. 2940—भविष्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उपधारा (3) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निम्नलिखित लोक संस्थानों को उक्त अधिनियम की अनुसूची में शामिल करती है, अर्थात् :—

“नवोदय विद्यालय समिति ; और
ऊर्जा प्रबंध केन्द्र, नागपुर।”

[सं. 4 (1) - संस्था. 5/90 (1)]

(Department of Expenditure)

New Delhi, the 11th November, 1991

S.O. 2940.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds to the Schedule to the said Act the name of the following public institutions, namely:—

Navodaya Vidyalaya Samiti; and
Energy Management Centre, Nagpur.

[No. 4(1)-E.V/90(1)]

का. आ. 2941.—भविष्य निधि अधिनियम, 1925 (1925 का 19) की धारा 8 की उपधारा (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निदेश देती है कि उक्त अधिनियम के उपबंध (धारा 6क को छोड़कर) अनुसूची में विनिर्दिष्ट निम्नलिखित संस्थानों के कर्मचारियों के लाभ के लिए संस्थापित भविष्य निधि पर लागू होंगे, अर्थात्

नवोदय विद्यालय समिति ; और
ऊर्जा प्रबंध केन्द्र, नागपुर

[सं. 4 (1) - संस्था. 5/90 - (II)]
जे. पी. पाटी, निदेशक (ई. जी)

S.O. 2041.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act (except section 6A) shall apply to the respective Provident Fund established for the benefit of the employees of the following institutions specified in the schedule, namely:—

Navodaya Vidyalaya Samiti; and
Energy Management Centre, Nagpur.

[No. 4(1)-E.V/90-II]

J. P. PATI, Director (E.G.)

नई दिल्ली, 13 नवम्बर, 1991

का. आ. 2942.—लोक परिसर (अनाधिकृत दखलदारों की वेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा नीचे तालिका के कालम (1) में उल्लिखित अधिकारी को उनके राजपत्रित अधिकारी होने के नाते उक्त

अधिनियम के प्रयोजनार्थ सम्पदा अधिकारी नियुक्त करती है जो उक्त तालिका के कालम (2) में बाद के इंदराज में विनिर्दिष्ट लोक परिसर के संबंध में अपने निजी क्षेत्राधिकार की स्थानीय सीमाओं के भीतर उक्त अधिनियम के अन्तर्गत या उक्त अधिनियम द्वारा सम्पदा अधिकारी को दी गई शक्तियों तथा शक्तियों का प्रयोग करेंगे।

तालिका

अधिकारी का पदनाम लोक परिसर तथा क्षेत्राधिकार के स्थानीय सीमाओं की श्रेणियां

(1)

(2)

वरिष्ठ उप महालेखाकार सियारी बस्ती, गंगटोक (सिक्किम) (प्रशासन) (लेखा तथा में प्रांतीय परिसर जिसमें टाइप-I हकदारी)/उप महा लेखा- टाइप-II, टाइप-III, टाइप-IV कार (प्रशासन) लेखा और टाइप-V के स्टाफ क्वार्टर है। तथा हकदारी) सिक्किम, गंगटोक।

[एफ. सं. ए - 11013/1/91 - ई जी 1]

नारायण दास, अव्वर सचिव

New Delhi, the 13th November, 1991

S.O. 2942:—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being a gazetted officer of the Government, to be the Estate Officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act, within the local limits of his respective jurisdiction in respect of public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of the officer	Categories of the public premises and local limits of jurisdiction
(1)	(2)
Senior Deputy Accountant General (Administration) (Accounts and Entitlements)/Deputy Accountant General (Administration) (Accounts and Entitlements), Sikkim, Gangtok.	Residential complex of staff quarters having Type-I Type-II, Type-III, Type-IV and Type-V at Syari Busty, Gangtok (Sikkim)

[F. No. A—11013/1/91-EG.GI]
NARAIN DAS, Under Secy.

(आर्थिक कार्य विभाग)

नई दिल्ली, 4 नवम्बर, 1991

का. आ. 2943.—केन्द्रीय सिविल (वर्गीकरण, नियंत्रण और अपील) नियमावली, 1965 के नियम 34 के साथ पठित नियम 24 के उपनियम (i) और नियम 12 के उप नियम (2) के खंड (ख) तथा नियम 9 के उपनियम (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए राष्ट्रपति, एतद्वारा भारत सरकार के वित्त मंत्रालय (आर्थिक कार्य विभाग) के दिनांक 28 फरवरी, 1957 के का. नि. आ. 627 के आदेश में आगे निम्नलिखित संशोधन करते हैं, यथा :—

उक्त आदेश की अनुसूची में,

(क) भाग II में, “बैंक नोट प्रेस, देवास” शीर्ष के अन्तर्गत क्रम संख्या (ii) के पदों के सामने कालम 3 में “मुख्य अभियन्ता” शब्दों के पश्चात् “प्रबन्धक (नियंत्रण)” शब्द और कोष्ठक जोड़े जाएंगे, और

(ख) भाग III में “बैंक नोट प्रेस, देवास” शीर्ष के अन्तर्गत क्रम संख्या (ii) के पदों के सामने कालम 3 में “मुख्य अभियन्ता” शब्दों के पश्चात् “प्रबन्धक (नियंत्रण)” शब्द और कोष्ठक जोड़े जाएंगे।

[एफ. सं. 4/11/90-करेंसी (बी. एन. पी.)]

वी. के. वेलुकुट्टी, विशेष अधिकारी, (करेंसी एवं सिक्का)

(Department of Economic Affairs)

New Delhi, the 4th November, 1991

S.O. 2943.—In exercise of the powers conferred by sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of rule 24, read with rule 34, of the Central Civil Service (Classification, Control and Appeal) Rules, 1965, the President hereby makes the following further amendments in the order of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. SRO. 627, dated the 28th February, 1957, namely:—

In the Schedule to the said Order,

(a) in Part II, against the posts at serial No. (ii) under the heading “Bank Note Press Dewas”, in column 3, after the words “Chief Engineer”, the words and brackets “Manager (Control)” shall be inserted; and

(b) in Part III, against the posts at serial No. (ii) under the heading “Bank Note Press, Dewas”, in column 3, after the words “Chief Engineer”, the words and brackets “Manager (Control)” shall be inserted.

[F. No. 4-11-90-Cy. (BNP)]

V. K. VELUKUTTY, Special Officer (Currency & Coinage)

(बैंकिंग प्रभाग)

नई दिल्ली, 6 नवम्बर, 1991

का. आ. 2944.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 8 की उपधारा (1) के खंड

(घ) के अनुसरण में केन्द्रीय सरकार एतद्वारा श्री मोंटेक सिंह आहलुवालिया सचिव, (आर्थिक कार्य विभाग), वित्त मंत्रालय आर्थिक कार्य विभाग, नई दिल्ली को श्री एस. पी. शुकल के स्थान पर भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में निदेशक नियुक्त करती है।

[संख्या एफ. 9/41[91-बी. ओ. - 1]

के. जी. गोयल, निदेशक

(Banking Division)

New Delhi, the 6th November, 1991

S.O. 2944.—In pursuance of clause (d) of sub-section (1) of section 8 of the Reserve Bank of India Act, 1934 (2 of 1934) the Central Government hereby nominates Shri Montek Singh Ahluwalia, Secretary (Economic Affairs) in the Ministry of Finance, Department of Economic Affairs, New Delhi to be a Director on the Central Board of the Reserve Bank of India vice Shri S. P. Shukla.

[F. No. 9/41/91-BO.I]

K. G. GOEL, Director.

नई दिल्ली, 11 नवम्बर, 1991

का. आ. 2945.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खंड 9 के साथ पठित खंड 3 के उपखंड (ग) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से सलाह करने के पश्चात्, एतद्वारा, श्री बी. सुधाकर शेट्टी, वरिष्ठ प्रबन्धक, केनरा बैंक, गोकुल शाखा, बंगलूर को दिनांक 11 नवम्बर, 1991 से 3 वर्ष की अवधि के लिए या जब तक वे केनरा बैंक के एक अधिकारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, केनरा बैंक के निदेशक मण्डल में निदेशक नियुक्त करती है।

[सं. एफ 9/24/91 - बी. ओ.-I]

New Delhi, the 11th November, 1991

S.O. 2945.—In pursuance of sub-clause (c) of clause 3 read with clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri B. Sudhakar Shetty, Senior Manager, Canara Bank, Gokula Branch, Bangalore, as a Director on the Board of Canara Bank with effect from the 11th November, 1991 for a period of three years or until he ceases to be an officer of Canara Bank, whichever is earlier.

[No. F. 9/24/91-BO. I]

नई दिल्ली, 13 नवम्बर, 1991

का. आ. 2946—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 के खंड 5 के उपखंड (1), खंड 7 और खंड 8 के उपखंड (1) के साथ पठित खंड 3 के उपखंड (क) के असन्तुर्ण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के साथ परामर्श करने के पश्चात्, एतद्वारा भारतीय स्टेट बैंक, स्थायी प्रधान कार्यालय भुवनेश्वर के वर्तमान मुख्य महाप्रबंधक श्री वी. बी. चड्ढा को उनके द्वारा कार्यभार ग्रहण करने की तारीख से 31 जनवरी, 1994 तक की अवधि के लिए न्यू बैंक आफ इंडिया के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[सं. एफ 9/45/91 - बी. ओ. - 1]

New Delhi, the 13th November, 1991

S.O. 2946.—In pursuance of sub-clause (a) of clause 3 read with sub-clause (1) of clause 5, clause 7 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980 the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri V. B. Chadha, presently Chief General Manager, State Bank of India, Local Head Office, Bhubaneswar as the Chairman and Managing Director of the New Bank of India for a period commencing with the date of his taking charge and ending with 31st January, 1994.

[F. No. 9/45/91-BO. I]

नई दिल्ली, 14 नवम्बर, 1991

का. आ. 2947—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खंड 9 के साथ पठित खंड 3 के उपखंड (ग) के असन्तुर्ण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से सलाह करने के पश्चात्, एतद्वारा, श्री एम. राय चौधरी, सहायक, मुख्य अधिकारी, कार्मिक विभाग, यूको बैंक, प्रधान कार्यालय, कलकत्ता को दिनांक 14 नवम्बर, 1991 से 3 वर्ष की अवधि के लिए या जब तक वे यूको बैंक के एक अधिकारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, यूको बैंक के निदेशक मण्डल में निदेशक नियुक्त करती है।

[सं. एफ. 9/36/91 - बी ओ 1]

एम. एम. सीनारामन, अवसर सचिव

New Delhi, the 14th November, 1991

S.O. 2947.—In pursuance of sub-clause (c) of clause 3 read with clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri S. Roy Choudhury, Assistant Chief Officer, Personnel Department, UCO Bank, Head Office, Calcutta, as a Director on the Board of UCO Bank with

effect from the 14th November, 1991 for a period of three years or until he ceases to be an officer of UCO Bank, whichever is earlier.

[No. F. 9/36/91-BO. I]

M. S. SEETHARAMAN, Under Secy.

वाणिज्य मंत्रालय

(मुख्य नियंत्रक, आयात-निर्यात का कार्यालय)

आदेश

नई दिल्ली, 15 नवम्बर, 1991

का. आ. 2940.—मैसर्स मोनिका इलेक्ट्रॉनिक्स लि. को सामान्य मुद्रा क्षेत्र के अन्तर्गत वी सी आर (जे सी बी आंड)/14" रंगीन पिक्चर ट्यूबों के लिए वी टी डी एम के आयात के लिए 12,97,297 रु. (बारह लाख सत्तानवे हजार दो सौ सत्तानवे रुपये मात्र) का एक आयात लाइसेंस सं. पी/एस/2019553 दिनांक 9-3-90 दिया गया था।

फर्म ने उपर्युक्त लाइसेंस की विनिमय नियंत्रण प्रति की अनुविलिपि जारी करने के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल विनिमय नियंत्रण प्रति कहीं खो गई अथवा गुम हो गई है। आगे यह भी कहा गया है कि उक्त लाइसेंस की विनिमय नियंत्रण प्रति किसी भी सीमा-शुल्क प्राधिकारों के पास पंजीकृत नहीं कराई गई थी और इसलिए सोमा शुल्क प्रयोजन प्रति के मूल्य का बिल्कुल भी हस्तेमाल नहीं किया गया है।

अपने तर्कों के समर्थन में लाइसेंसधारी ने नोटरी पब्लिक, दिल्ली के समक्ष विधिवत रूप से शपथ लेकर रसीदी कागज पर एक शपथपत्र दाखिल किया है। तदनुसार मैं संतुष्ट हूँ कि आयात लाइसेंस सं. पी/एस/2019553 दिनांक 9-3-90 की मूल विनिमय नियंत्रण प्रति फर्म से कहीं खो गई अथवा गुम हो गई है। अतः यथासंशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 की उपधारा 9 (ग) द्वारा प्रदर्शन शक्तियों का प्रयोग करने हुए मैसर्स मोनिका इलेक्ट्रॉनिक्स लि. को जारी की गई मूल विनिमय नियंत्रण प्रति सं. पी/एस/2019553 दिनांक 9-3-90 एतद्वारा रद्द की जाती है।

उक्त लाइसेंस की मुद्रा विनिमय नियंत्रण प्रति की अनुविलिपि पार्टी को अलग से जारी की जा रही है।

[एफ सं. स्प्ली./एन एस/993/एसएसआई/ए एम 90/एसएलएम/1310]

एम. डी. कैम, उप मुख्य नियंत्रक आयात-निर्यात

MINISTRY OF COMMERCE

(Office of the Chief Controller of Imports & Exports)

ORDER

New Delhi, the 15th November, 1991

S.O. 2948—M/s. Monica Electronics Ltd. were granted an import licence No. P/S/2019553 dated 9-3-90 for Rs. 12,97,297 (Rupees Twelve lakh ninety seven thousands two hundred and ninety seven only) for import of V.T.D.M. for VCR (JCV Brand) 14" colour picture tubes under G.C.A.

The firm has applied for issue of duplicate copy of Ex. Control Purposes Copy of the abovementioned licence on the ground that the original Exchange Control Copy of the licence has been lost or misplaced. It has further been stated that the Exchange Control copy of the licence was not registered with any Customs Authority and as such the value of the customs purpose copy has not been utilised at all.

In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public Delhi. I am accordingly satisfied that the original Ex. Control Copy of import licence No. P/S/2019553 dt.

9-3-90 has been lost or misplaced by the firm, in exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dt. 7-12-1955 as amended, the said original Ex. Control Copy No. P/S/2019553 dated 9-3-90 issued to M/s. Morica Electronics Ltd., is hereby cancelled.

A duplicate Ex. Control Copy of the said licence is being issued to the party separately.

[F. No. Suppl.-NS/993/SSI/AM.90/SLS/1310]

M. D. KEM, Dy. Chief Controller of Imports and Exports

खाद्य एवं नागरिक पूर्ति मंत्रालय

(नागरिक पूर्ति विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 24 अक्टूबर, 1991

का.आ. 2949. ---भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करने है कि जिम्/जिन लाइसेंस (मों) का/के विवरण नीचे दिया गया है/दिए गए हैं, वहाँ/वे उमके/उनके सामने दी गई तिथि से रद्द कर दिया गया है/दिए गए हैं।

अनुसूची

लाइसेंस संख्या तथा दिनांक	लाइसेंसधारी का नाम व पता	रद्द लाइसेंस के अन्तर्गत वस्तु/प्रक्रम तथा सम्बद्ध भारतीय मानक	रद्द किए जाने की तारीख
सी एम/एल 2197964	मै. श्री मरुका टिन वर्क्स अयाथिल वड्डाकीविला, डा. -क्विलान-691010	खाद्य तेलों और वनस्पति तेल 15 किग्रा. के चौकोर कन्स्तर, आइएस : 10325-1989	1991-02-16

[के प्रावि/55 : 2197964]

MINISTRY OF FOOD AND CIVIL SUPPLIES

(Department of Civil Supplies)

BUREAU OF INDIAN STANDARDS

New Delhi, the 24th October, 1991

S.O.2949.—In pursuance of sub-regulation(6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulation 1988, the Bureau of Indian Standards hereby notifies that the licence particulars of which is given below has been cancelled with effect from the date indicated:

THE SCHEDULE

Licence No. and date	Name and Address of the licensee	Article/Process with relevant Indian Standard covered by the licence cancelled.	Date of Cancellation
CM/L-2197964	M/s. Sreemuruka Tin Works, Ayathil, Vadakkevila, P.O. Quilon—691 010	15-Kg. Square tins for Vanaspati and edible oils IS : 10325-1989	1991-02-16

का. भा. 2950.— भारतीय मानक ब्यूरो प्रमाणन विनियम, 1988 के विनियम, 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिम/जिन (लाइसेंस(सों) का/के विवरण नीचे दिया गया है/दिए गए हैं, वे उसके/उनके सामने की गई तिथि से रद्द कर दिया गया है/दिए गए हैं।

अनुसूची

क्रम. सं.	लाइसेंस संख्या तथा दिनांक	लाइसेंसधारी का नाम व पता	रद्द लाइसेंस के अन्तर्गत वस्तु/प्रक्रम तथा सम्बद्ध भारतीय मानक	रद्द किए जाने की तारीख
	सीएम/एस-1576260	गोयनका मिनरल्स प्रा. लि., प्लॉट नं. 1 और 2, इंडस्ट्रियल एरिया, सिओनी (म.प्र.), कार्या : 1062 वेस्ट हाई कोर्ट रोड, नागपुर-440010	खाद्य तेलों और वनस्पति हेतु 15 किग्रा. के कनस्तर, आईएस : 10325-1989	1991-03-08

[के.प्र.वि./55 : 1576260]

एस. सुब्रह्मण्यन, अवर महानिदेशक

S.O. 2950 In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulation 1988, the Bureau of Indian Standards hereby notifies that the licence particulars of which is given below has been cancelled with effect from the date indicated :

THE SCHEDULE

Licence No. and date	Name and Address of the licensee	Article/Processes with relevant Indian Standard covered by the licensee cancelled.	Date of cance llation
CM/L-1576260	M/s. Goenka Minerals Pvt. Ltd. Plot No. 1&2, Industrial Area, Seoni (M.P.) Office: 1062, West High Court, Road, Nagpur—440010	15-Kg Square tins for Vanaspati and edible oils— IS:10325-1989	1991-03-08

[C.M.D. 1576260]

S. SUBRAMANYAN, Additional Dir.
Generalमानव संसाधन विकास मंत्रालय
(महिला एवं बाल विकास विभाग)

नई दिल्ली, 6 नवम्बर, 1991

पूर्व बिन्यास अधिनियम, 1890 (1890 का 6) के मामले में राष्ट्रीय बाल कोष,

नई दिल्ली के मामले में

का. भा. 2951 : —राष्ट्रीय बाल कोष, नई दिल्ली के प्रबन्ध बोर्ड की महमति से एवं उनके आवेदन पर पूर्व बिन्यास अधिनियम 1890 (1890 का 6) के खण्ड 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा आदेश देती है कि नीचे दिए गए ब्यूरो के अनुसार (72,11,535) बहूतर लाख ग्यारह हजार पांच सौ पैंतीस केवल मात्र (75 लाख रुपये की छूट कीमत) की राशि बैंक आफ इंडिया, जनपथ ब्रांच, नई दिल्ली में सर्टिफिकेट डिपॉजिट योजना में 16% की ब्याज दर पर 3 महीने के लिए निवेश की गई।

क्रम सं.	राशि	पिछले निवेश की तारीख	भुगतान की तारीख	अभियुक्तियां
1.	70,00,000/	25-7-91	25-10-91	राष्ट्रीय बाल कोष के पाम उपलब्ध बकाया
2.	2,11,535/			रोकड़ में मे।

उपरोक्त खाता भारत के पूर्व विन्यास कोषाध्यक्ष के नाम होगा और इस धनराशि का वह राष्ट्रीय बाल कोष, नई दिल्ली के प्रशासन के लिए उम योजना के अनुसार उपयोग में लायेंगे जो भारत सरकार के तत्कालीन समाज कल्याण विभाग की दिनांक 2 मार्च, 1979 को समग्र-मध्य पर यथासंगोधि सं. मां. अं. 120 (ई) के साथ प्रकाशित की गई थी।

[सं. 13-7/91-टी.आर. II]

एम.पी.एस. सेठी, उप निदेशक (एस)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT
(Department of Women and Child Development)

New Delhi, the 11th November, 1991

In the matter of the Charitable Endowments Act, 1890
(6 of 1890)

In the matter of the National Children's Fund, New Delhi

S.O. 2951.—On the application made by and with the concurrence of the Board of Management of the National Children's Fund, New Delhi, as in exercise of the powers conferred by Section 4 of the Charitable Endowments Act, 1890 (6 of 1890), the Central Government do hereby order that the sum of Rs. 72,21,535 (Rupees Seventy two lakhs Eleven thousand five hundred and thirty five only) (discounted value of Rs. 75,00,000) as per particulars given below invested in Certificate of Deposit Scheme for 3 months, in Bank of India, Janpath Branch, New Delhi at the rate of interest 16%.

S.No.	Amount	Date of previous Investment	Date of Maturity	Remarks
1.	Rs.70,00,000/-	25-7-91	25-10-91	
2.	Rs. 2,11,535/-			From cash balance with NCF

The above account shall vest in the treasurer of charitable endowments of India to be held by him for being applied in accordance with the scheme for the administration of the National Children's Fund, New Delhi, published with the notification of the Government of India in the then Department of Social Welfare No. S.O. 120(E) dated the 2nd March, 1979 as amended from time to time.

[F. No. 13-7/91-TR-II]

M.P.S. SETHI, Dy. Director (S)

ग्रामीण विकास मंत्रालय

(विपणन एवं निरीक्षण निदेशालय)

फरीदाबाद, 6 नवम्बर, 1991

का.आ. 2952.—साधारण श्रेणीकरण तथा चिन्हांकन नियमावली 1988 के अधीन मूलको प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस विषय पर दिनांक 25-4-75 के कार्यालय आदेश संख्या 7(15)/73-सामान्य डी-3 में आंशिक संशोधन करते हुए, मै. ओ.पी. बिहारी, कृषि विपणन सलाहकार, भारत सरकार, एतद्द्वारा, स्तम्भ (1) में उल्लिखित नियमों के अनुसरण में जैसा कि स्तम्भ (2) में शक्तियों के प्रयोग के अधिकार विनिर्दिष्ट हैं, स्तम्भ (3) में विनिर्दिष्ट राज्य सरकार के अधिकारियों को हिमाचल प्रदेश राज्य में घरेलू मंडी के लिए कृषि उपज (श्रेणीकरण तथा चिन्हांकन), अधिनियम; (1937) (1937 का 1) के अधीन निर्धारित श्रेणीकरण तथा चिन्हांकन नियमों एवं श्रेणीकरण अभिधानों के अनुसार कृषि और अन्य उत्पादों के श्रेणीकरण तथा चिन्हांकन के बारे में अधिकार देता हूं।

साधारण श्रेणीकरण चिन्हांकन नियमावली, 1988 के नियम का संदर्भ।	प्रत्यायुक्त शक्तियां	राज्य के अधिकारी का पदनाम
1	2	3
नियम 3 (4)	घरेलू श्रेणीकरण के लिए नवीकरण प्रमाण-पत्र प्रदान करने हेतु आवेदन प्राप्त करेगा।	उप कृषि निदेशक (पी एण्ड एम), शिमला हिमाचल प्रदेश
नियम 3 (5)	आवेदक की सहायता के सत्यापन तथा परिसरों प्रयोगशाला, संसाधन एककों के निरीक्षण की व्यवस्था करना तथा घरेलू श्रेणीकरण के लिए प्राधिकरण प्रमाण-पत्र प्रदान करने हेतु सिफारिश करना,	—वही—

नियम 4	विकेन्द्रीकरण श्रेणीकरण के बारे में प्राधिकरण प्रमाण-पत्र का नवीनीकरण करना,	उप कृषि निदेशक (पोपण्ड एम), शिमला हिमाचल प्रदेश
नियम 8 (2)	एगमार्क श्रेणीकरण के लिए प्राइवेट वाणिज्यिक प्रयोगशाला के अनुमोदन की सिफारिश करना,	वही
नियम 12	विकेन्द्रीकरण श्रेणीकरण के बारे में श्रेणी अभिधान चिन्हों को जारी करना अथवा प्रयोग को रोकना,	वही
नियम 14	किसी भी अनुसूचित वस्तु के बारे में सूचना, रिपोर्ट, विवरणी प्राप्त करना,	वही
नियम 3 (8) (ख)	प्राधिकृत श्रेणीकरण परिसरों का निरीक्षण करना तथा यह पता लगाना कि विकेन्द्रीकरण वस्तुओं का श्रेणीकरण तथा चिह्नंकन सही रूप में किया गया है।	वही
नियम 3 (8) (ग)	विकेन्द्रीकरण श्रेणीकरण के प्राधिकृत पैकरों द्वारा रखे गए रिकार्ड की जांच करना,	वही
नियम 3 (8) (घ)	श्रेणी अभिधान चिन्ह लगे हुए किसी पैकेज को खोलना तथा निरीक्षण करना तथा किसी भी श्रेणीकृत उपज के नमूने लेना परन्तु सभी नमूनों के लिए संशय किया जाएगा।	वही
नियम 3 (8) (ङ)	विकेन्द्रीकरण श्रेणीकरण के अधीन आने वाली किसी भी श्रेणीकृत वस्तु का श्रेणी अभिधान चिन्ह रद्द करना या उसे हटाना यदि वह विहित श्रेणी विनिर्देशनों के अनुरूप नहीं है।	वही

[सं. क्यू-11011/2/90-क्यू.सी.-3]

ओ.पी. बिहारी, कृषि विपणन सलाहकार

MINISTRY OF RURAL DEVELOPMENT

(Directorate of Marketing and Inspection)

Faridabad, the 6th November, 1991

S.O. 2952.—In exercise of the powers conferred on me under the General Grading and Marking Rules, 1988 and in partial modification of this office order No. 17(15)/73-Gen. D.III dated 25-4-75 on the subject, I, O. P. Behari, Agricultural Marketing Adviser to the Government of India

hereby delegate, in pursuance of the rules cited in column (1), authority to exercise the powers, as specified in column (2), to the officers of the State Government specified in column (3), in respect of grading and marking of agricultural and other produce in accordance with the grade designations and the Grading and Marking Rules prescribed under the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937) for domestic market in the State of Himachal Pradesh.

Reference rule of the GGM Rules 1988	Power delegated	Designation of the State Officer
Rule 3(4).....	To receive the application for grant of Certificate of authorisation for domestic grading,	Dy. Director of Agriculture (Potato and Marketing) Shimla.
Rule 3(5).....	To arrange for verification of bonafides of the applicant and inspection of the premises Laboratory, processing units and to recommend grant of C.A. for domestic grading;	-do-
Rule 4.....	To renew the certificate of Authorisation in respect of de-centralised grading	-do-

1	2	3
Rule 8(2)	To recommend approval of private commercial laboratory for Agmark grading;	Dy Director of Agriculture
Rule 12.....	To withhold issue or use of grade designation marks in respect of de-centralised grading;	(Potato and marketing)Shimla.
Rule 14.....	To obtain information, report return in respect of any of the Schedule articles;	-do-
Rule 3(8)(b).....	To inspect the authorised grading premises and to ascertain that grading and marking of de-centralised commodities is correctly performed.	-do-
Rule 3(8)(c)	To examine the record maintained by the authorised packers of de-centralised grading;	-do-
Rule 3(8)(d).....	To open and inspect any package bearing grade designation mark and to take samples of any graded produce provided all samples shall be paid for;	-do-
Rule 3(8)(c)	To cancel or to remove the grade designation mark from any graded article covered under decentralised grading if found not conforming to the prescribed grade specifications.	-do-

[No. Q.11011/2/90-qc--III]

O.P. BEHARI, Agricultural Marketing Adviser.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 12 नवम्बर, 1991

का.आ. 2953 :--केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय के कानूनी आदेश सं. 2852, तारीख 17 अक्टूबर, 1987 को अधिकांत करते हुए, नीचे दी गई सारणी के स्तंभ (2) में उल्लिखित अधिकारियों को जो सरकार के राजपत्रित अधिकारियों की पंक्ति के समकक्ष अधिकारी हैं एतद्वारा उक्त अधिनियम के प्रयोजन के लिए सम्पदा अधिकारी के रूप में नियुक्त करती है, जो उक्त अधिनियम द्वारा या उसके अधीन प्रदत्त शक्तियों का प्रयोग करेंगे और उक्त सारणी के स्तंभ 3 में नस्थानी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों के संबंध में सम्पदा अधिकारियों को सौंपे गए कर्तव्यों का अपनी अधिकारिता की स्थानीय परिसीमाओं के अन्तर पालन करेंगे।

सारणी

क्रम सं.	अधिकारी का पदनाम	सरकारी स्थानों की श्रेणियां और अधिकारिता की स्थानीय परिसीमाएं
(1)	(2)	(3)
1.	उप प्रबन्धक (प्रशासन), इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग) इंडियन आयल भवन, जनपथ, नई दिल्ली-110001	इंडियन आयल कारपोरेशन लिमिटेड (रिफाइनरीज तथा पाइपलाइन प्रभाग) के प्रशासनिक नियंत्रणाधीन दिल्ली सघ राज्य क्षेत्र और नवीन ओखला औद्योगिक विकास-प्राधिकरण (नौएडा) उत्तर प्रदेश के सरकारी स्थान।

2	उप प्रबन्धक (प्रशासन) इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग) गुवाहाटी रिफाइनरी, डाकघर नूनमाटी, गुवाहाटी (असम)	इंडियन आयल कारपोरेशन लिमिटेड (रिफाइनरीज तथा पाइपलाइन प्रभाग) के प्रशासनिक नियंत्रणाधीन असम राज्य के अन्दर सरकारी स्थान।
3.	कार्मिक एवं प्रशासन प्रबन्धक, इंडियन आयल कारपोरेशन लिमिटेड, गुजरात रिफाइनरी, डाकघर जवाहर नगर, जिला वडोदा, (गुजरात)	इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग) के प्रशासनिक नियंत्रणाधीन गुजरात राज्य के अन्दर सरकारी स्थान।
4.	उप प्रबन्धक (प्रशासन) इंडियन आयल कारपोरेशन लिमिटेड, हल्दिया रिफाइनरी, डाकघर हल्दिया तेल रिफाइनरी, जिला मिदनापुर, (पश्चिमी बंगाल)	इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग) के प्रशासनिक नियंत्रणाधीन पश्चिमी बंगाल राज्य के अन्दर सरकारी स्थान।
5.	कार्मिक एवं प्रशासन प्रबन्धक, इंडियन आयल कारपोरेशन लिमिटेड, मथुरा रिफाइनरी, डाकघर मथुरा-281005 (उत्तर प्रदेश)	इंडियन आयल कारपोरेशन लिमिटेड के प्रशासनिक नियंत्रणाधीन उत्तर प्रदेश राज्य के अन्दर सरकारी स्थान जिसमें नवीन ओखला औद्योगिक विकास प्राधिकरण (नोएडा) के स्थान शामिल नहीं होंगे।
6.	वरिष्ठ आवासी प्रबन्धक, इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग), 9-सैयद अमीरअली एवं न्यू, पार्क सर्कस, कलकत्ता-17	इंडियन आयल कारपोरेशन लिमिटेड (रिफाइनरीज तथा पाइपलाइन प्रभाग) के प्रशासनिक नियंत्रणाधीन कलकत्ता शहर के अन्दर सरकारी स्थान।
7.	वरिष्ठ आवासी प्रबन्धक, इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग), जी-9, अली यावर जंग मार्ग, बान्द्रा (पूर्वी), मुम्बई-400051	इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग) के प्रशासनिक नियंत्रणाधीन मुम्बई शहर के अन्दर सरकारी स्थान।
8.	उप प्रबन्धक (प्रशासन), इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग), बरौनी रिफाइनरी, जिला बेगूसराय, (बिहार)	इंडियन आयल कारपोरेशन लिमिटेड, (रिफाइनरीज तथा पाइपलाइन प्रभाग) के प्रशासनिक नियंत्रणाधीन बिहार राज्य के अन्दर सरकारी स्थान।

[फा.सं. आग्र-25015/1/91-ओ.आग्र-1]

कुलदीप सिंह, अवर सचिव

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 12th November, 1991

S.O. 2953 In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in pursuance of the notification of the Government of India in the Ministry of Petroleum & Natural Gas No. S.O. 2852 dated the Seventeenth October, 1987, the Central Government hereby appoints the officers mentioned in column (2) of the table below, being officers of equivalent rank of gazetted officers of the Government, to be Estate Officers for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entry in column (3) of the said table.

THE TABLE

Sl. No.	Designation of Officer	Categories of Public premises and local limits of jurisdiction.
1.	Deputy Manager (Administration), Indian Oil Corporation Ltd., (Refineries & Pipelines Division), Scope Complex, Core-2, 7, Institutional Area, Lodhi Road, New Delhi-110003	Public premises under the administrative control of Indian Oil Corporation Ltd. (Refineries & Pipelines Division) within the Union Territory of Delhi and New Okhla Industrial Development Authority (NOIDA) of the State of Uttar Pradesh.

1	2	3
2. Deputy Manager (Administraion) Indian Oil Corporation Ltd., (Refineries & Pipelines Division) Guwahati Refinery, Post Office Noonmati, Guwahati(Assam).	Public premises under the administrative control of Indian Oil Coporation Ltd., (Refineries & Pipelines Division) within the State of Assam.	
3. Personnel & Administration Manager Indian Oil Corporation Ltd , Gujarat Refinery, PO. Jawahar Nagar, Distt Baroda (Gujarat)	Public premises under the administrative control of Indian Oil Corporation Ltd (Refineries & Pipelines Division) within the state of Gujarat	
4. Deputy Manager (Administration), Indian Oil Corporation Ltd , Post Office Haldia Oil Refinery, Distt Midnapore (West Bengal)	Public premises under the administrative control of Indian Oil Corporation Ltd (Refineries & Pipelines Division) within the State of West Bengal)	
5 Personnel & Administration, Manager, Indian Oil Corporation Ltd., Mathura Refinery, Post Office Mathura 281005 (U P)	Public premises under the administrative control of Indian Oil Corporation Ltd within the State of Uttar Pradesh except for the new Okhla Industrial Development Authority (NOIDA) arca.	
6. Senior Resident Manager, Indian Oil Corporation Ltd. (Refineries & Pipelines Division), G-9, Ali Yavar Jang Marg, Bandra (East), Bombay 400051.	Public premises under the administrative control of Indian Oil Corporation Ltd. (Refineries & Pipelines Division) within the city of Bombay.	
7. Senior Resident Manager Indian Oil Corporation Ltd. (Refineries & Pipelines Division). 9, Syed Amil Ali Avenue, Park Circus, Calcutta.-17.	Public premises under the administrative control of Indian Oil Corporation Ltd. (Refineries & Pipelines Division) within the city of Calcutta.	
8. Deputy Manager (Administration), Indian Oil Corporation Ltd. (Refineries & Pipelines Division), Barauni Refinery Distt. Begusarai (Bihar).	Public premises under the administrative control of Indian Oil Corporation Ltd. (Refineries & Pipelines Division) within the state of Bihar.	

[File. No. R-25015/1/91-OR. I]

KULDIP SINGH Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 15 नवम्बर, 1991

का. आ. 2954 यतः पेट्रोलियम और खनिज पाइप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ.सं. 2327 तारीख 16-7-91 द्वारा केन्द्रीय सरकार ने उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे इस धारा की उपधारा (4) द्वारा प्रकाशित शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय असम गैस क. लि. में, सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

दुलियाजान से 12" (300 एम.एम)/8" (200 एम.एम)/6" (150 एम.एम) अ. दी पाईप लाईन डिब्रुगढ़ टि गैस ग्रीड के चाय बागानों के लिये गैस पाईप लाईन बिछाना।

क्र. सं.	गांव	तालुक	पाटा नं.	दाग नं.	एरिया			मन्तव्य
					बि.	क.	ल.	
19.	अभयपुरिया गांव	टेंगाखाट	मियावी 235 नं.	453	0	1	6	
			" 46 नं.	454	0	1	0	
			" 223 नं.	456	0	1	6	
कुल क्षेत्रफल					0	3	12	

[सं. 12016/3 (ई)/90-ओ. एन. जी-डी-4]

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 15th November, 1991

S.O. 2954.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 2327 dated 16-7-91 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that right of user in the said lands shall instead of vesting in the Central Government vests on this date of publication of this declaration in the Assam Gas Company Limited free from encumbrances.

LAND SCHEDULE

Laying of 12" (300mm)/8" (200 mm)/6" (150mm) O D underground natural gas pipe line from Duliajan to the tea gardens of Dibrugarh Tea Gas Grid.

Sl. No.	Name of Village	Mauza	Patta No.	Dag No.	Area			Remarks
					B	K	L	
19.	Abhaypuria Gaon	Tengakhat	PP No. 235	453	0	1	6	
			" 46	454	0	1	0	
			" 223	456	0	1	6	
Total Area					0	3	12	

[No. 12016/3/(E)/90-ONG-D-IV]

का. आ. 2955.—यतः पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. सं. 2036 तारीख 16-7-91 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाईप लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में बिहित होने के बजाय अमम गैस क. लि. में, सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

[सं. 12016/3 (घ)/90 - ओ. एन. जी./डी - 4]

अनुसूची

हुलियाजान से 12" (300 एम,एम) 8" (200 एम,एम) 6" (150 एम,एम) अ. बो पाईप लाईन डिब्रुगढ़ टि गैस ग्रीड के चाय बागानी के लिए गैस पाईप लाईन बिछाना।

क्र.सं.	गांव	तालुक	पाटा नं.	दाग नं.	एरिया			मस्तक
					बि.	क.	ल.	
1.	1 नं. मेरबिल माजुलि गांव	खेरेमिया	सरकार	118	1	1	8	
			कुल क्षेत्रफल		1	1	8	
2.	नं. चालकटकी गांव	"	मियादी नं. 29	58	0	0	6	
			" " 80	59	1	1	12	
			" " 45	70	0	1	19	
			" " 29	72	0	1	9	
			" " 20	69	0	2	0	
			" " 54	68	0	2	0	
			" " 6	156	0	2	4	
			" " 16	154	1	4	3	
			" " 13	155	0	1	17	
			" " 1	153	0	0	18	
			" " 91	161	0	0	11	
			" " 100	367	0	0	11	
			" " 99	368	0	0	13	
			" " 101	369	0	0	15	
			" " 94	165	0	1	11	
			" " 35	164	0	0	2	
			" " 35	166	0	2	0	
			" " 12	167	0	2	5	
			" " 33	168	0	2	0	
			" " 52	169	0	4	12	
			" " 40	203	0	0	6	
			" " 26	196	1	1	3	
			एकसना	195	0	4	4	
			मियादी नं. 13	194	0	0	9	
			सरकार	63	0	0	6	
			"	62	0	0	18	
			मियादी नं. 66	191	0	0	15	
			सरकार	192	0	3	13	
			"	64	0	0	6	
			कुल क्षेत्रफल		12	0	8	

क्र.सं.	गांव	तालुक	पाटा नं.	दाग नं.	वि.	एरिया		मन्तव्य
						क.	ल.	
3.	पाभाजान गांव	खेरेमिया	मियादी नं.	57	197	0	2	13
			सरकार		195	0	0	15
			"		198	0	1	13
			मियादीनं.	38	199	0	3	2
			" "	40	201	1	0	1
			" "	58	202	0	1	19
			एकसमा		208	0	3	13
			मियादी नं.	60	209	0	1	8
			" "	39	210	0	2	4
			" "	24	211	0	2	8
			" "	69	212	0	1	8
			" "	18	214	1	0	3
			" "	55	216	0	1	17
			" "	31	219	0	2	2
			" "	42	251	0	1	13
			" "	67	252	0	4	1
			" "	55	224	0	2	0
			" "	56	223	0	1	13
			" "	25	227	0	0	18
			" "	1	225	0	0	18
			" "	33	226	1	3	5
			" "	72	186	0	3	13
			" "	74	228	0	0	13
			" "	47	229	0	0	13
			" "	68	182	0	1	17
			" "	28	236	0	2	13
			" "	59	237	1	0	10
			" "	21	238	0	3	4
			" "	43	239	0	2	4
			" "	59	240	0	1	2
			" "	43	241	0	1	2
3.	पामजान गांव	खेरेमिया	मियादी नं.	23	242	0	1	17
			सरकार		215	0	1	13
			कुल क्षेत्रफल					16
4.	2 नं. पाभजान गांव	खेरेमिया	सरकार		19	3	0	5
			सरकार		5	0	0	5
			कुल क्षेत्रफल					3
5.	1 नं. चेतियापथार गांव	खेरेमिया	सरकार		30	0	0	5
			सरकार		4	0	2	10
			कुल क्षेत्रफल					0

क्र.सं.	गांव	तालुका	पट्टा नं.	दाग नं.	एरिया			
					बि.	क.	ल.	मन्तव्य
6.	2 नं., चेतियापथार गांव	खेरेमिया	सरकार	179	8	2	9	
			सरकार	69	0	0	5	
			एकसना	191	0	0	11	
			नियादी 40	204	0	0	11	
			सरकार	212	1	0	17	
			सरकार	203	0	0	2	
			कुल क्षेत्रफल		10	2	15	
7.	खेरेमिया गांव	खेरेमिया	सरकार	454	11	0	13	
			सरकार	261	0	0	7	
			कुल क्षेत्रफल		11	1	0	
8.	तिगराई चारिआलि गांव	खेरेमिया	मियादी 97 नं.	290	0	4	19	
			सरकार	191	0	0	6	
			सरकार	292	1	2	15	
			मियादी 2 नं.	293	0	1	0	
			" "	335	0	2	13	
			" 63 नं.	317	0	1	16	
			" 26 नं.	308	0	1	2	
			" 25 नं.	309	0	1	2	
			" 26 नं.	334	0	2	13	
			" 28 नं.	325	0	2	2	
			" 25 नं.	324	0	0	11	
			सरकार	327	0	0	6	
			"	326	0	0	6	
			मियादी 68 नं.	323	0	2	2	
			सरकार	231	0	0	11	
			मियादी 68 नं.	340	0	1	9	
			" 1 नं.	343	0	1	17	
			सरकार	474	6	2	11	
			मियादी 41 नं.	470	0	0	6	
			सरकार	475	2	2	0	
			सरकार	522	6	3	4	
9.	गैरेकनि गांव	खेरेमिया	सरकार	17	0	0	6	
			"	18	0	0	7	
			"	19	0	0	1	
			"	44	1	0	14	
			"	46	3	2	1	
			"	68	0	2	2	
			"	69	1	1	8	
			कुल क्षेत्रफल—		22	0	11	
			कुल क्षेत्रफल—		6	2	2	

क्र.सं.	गांव	तालुक	पाटा नं.	दाग नं.	एरिया बि.	क.	ल.	मन्तव्य
10.	तिगराईहोला गांव द्वितीय खण्ड	खेरेमिया	सरकार	54	0	3	4	
			एकसना	55	0	0	15	
			सरकार	56	0	2	4	
			"	57	0	1	8	
			"	58	0	4	17	
			"	198	0	0	6	
			"	199	2	3	18	
			"	260	0	1	19	
			"	259	0	0	2	
			मियादी 30 नं.	238	0	2	15	
			" "	239	0	0	15	
			सरकार	235	0	0	18	
			"	236	0	4	4	
			"	242	0	4	15	
			"	243	0	2	0	
			"	230	3	4	5	
			कुल क्षेत्रफल =		12	3	5	
11.	तिगराई गांव द्वितीय खण्ड	खेरेमिया	सरकार	198	1	2	10	
			मियादी चाय 1 नं.	195	0	1	10	
			"	196	0	0	1	
			"	197	0	2	11	
			मियादी 3 नं.	109	0	0	1	
			"	200	0	0	12	
			"	202	0	0	10	
			"	204	0	0	6	
			मियादी 48 नं.	205	0	0	11	
			कुल क्षेत्रफल =		2	3	12	
12.	पानिमादाई गांव	खेरेमिया	सरकार	134	17	1	8	
			कुल क्षेत्रफल =		17	1	8	
13.	अभयपुरिया गांव	टेंगाखाट	सरकार	22	0	0	11	
			मियादी 230 नं.	401	0	2	6	
			" 30 नं.	402	0	0	7	
			" 162 नं.	403	0	0	7	
			" 159 नं.	405	0	0	15	
			" 46 नं.	406	0	0	15	
			" 160 नं.	409	0	1	15	
			" 198 नं.	426	0	3	12	
			" 46 नं.	427	0	0	5	
			" 46 नं.	428	1	1	5	
			" 141 नं.	430	0	0	18	

क्र.सं.	ग्राम	तालुक	पाटा नं.	बाग नं.	बि.	एरिया		मन्तव्य
						क.	स.	
13. अभयपुरिया गांव (जारी)	टेंगाखाट		„110 नं.	431	0	1	19	
			„ 74 नं.	432	0	1	4	
			„ 147 नं.	385	0	0	2	
			सरकार	451	0	0	11	
			„	2	0	2	15	
			मियादी 153 नं.	449	0	2	11	
			„	448	0	1	17	
			मियादी 148 नं.	450	0	2	4	
			„ 220 नं.	477	0	0	15	
			„ 59 नं.	478	0	3	10	
			„ 48 नं.	442	0	0	18	
			„ 223 नं.	479	0	1	13	
			„ 142 नं.	480	0	0	15	
			„ 4 नं.	481	0	2	4	
			„ 4 नं.	482	0	1	2	
			„ 194 नं.	457	0	1	0	
			„ 71 नं.	486	0	0	5	
कुल क्षेत्रफल =					8	3	1	
14. चुंगि गांव	टेंगाखाट		सरकार	22	0	0	4	
			मियादी 99 नं.	25	0	0	6	
			„ 113 नं.	28	0	2	10	
			सरकार	30	0	0	6	
			„	133	6	3	9	
कुल क्षेत्रफल =					7	1	15	
15. निज टेंगाखाट	टेंगाखाट		सरकार	136	0	1	6	
			मियादी 115 नं.	137	1	0	6	
			„ 223 नं.	485	0	4	1	
			„ 223 नं.	140	0	2	11	
			„ 74 नं.	131	0	2	10	
			„ 144 नं.	141	0	2	11	
			„ 3 नं.	143	0	1	9	
			„ 148 नं.	145	0	2	10	
			„ 71 नं.	163	0	2	8	
			„	62	0	1	6	
			„	161	0	1	13	
			„ 75 नं.	159	0	3	15	
			„ 199 नं.	160	0	3	5	
			„ 186 नं.	179	1	2	18	
			„ 186 नं.	306	0	3	2	
			„ 69 नं.	308	0	1	17	
			„ 151 नं.	309	0	1	9	
„ 112 नं.	314	0	1	0				

क्र.सं.	गांव	तालुक	पादा नं.	वाग नं.	एरिया			मन्तव्य
					बि.	क.	ल.	
15. विज टेंगाखाट (जारी),	टेंगाखाट	" 21 नं.	310	0	4	3		
		" 221 नं.	343	0	2	4		
		" 157 नं.	344	0	0	18		
		" 143 नं.	345	0	1	6		
		" 87 नं.	346	0	2	2		
		" 63 नं.	347	0	0	17		
		" 141 नं.	365	0	1	11		
		" 19 नं.	364	0	0	11		
		सरकार	335	5	0	10		
		"	334	0	0	11		
		"	333	0	0	11		
		मियादी 213 नं.	368	0	1	9		
		" 63 नं.	369	0	2	11		
		" 200 नं.	377	0	0	7		
		" 7 नं.	380	0	4	4		
		" 41 नं.	374	0	3	6		
		" 198 नं.	373	0	2	4		
		सरकार	372	0	1	0		
		मियादी 60 नं.	130	0	0	5		
		" 71 नं.	144	0	0	6		
		" 4 नं.	181	0	0	5		
		" 208 नं.	182	0	0	5		
		कुल क्षेत्रफल =		21	1	13		
16. गनधिया गांव	टेंगाखाट	मियादी 77 नं.	324	0	2	0		
		" 105 नं.	328	0	2	9		
		" 53 नं.	329	0	3	6		
		" 101 नं.	331	0	2	10		
		" 104 नं.	332	0	1	9		
		3 नं.	336	0	2	14		
		" 119 नं.	337	0	1	7		
		" 110 नं.	341	0	2	0		
		सरकार	530	0	0	15		
		कुल क्षेत्रफल =		3	3	10		
17. गालुनि गांव	टेंगाखाट	मियादी 128 नं.	558	0	1	13		
		" 122 नं.	561	0	4	1		
		सरकार	564	0	0	7		
		"	281	0	1	11		
		"	567	0	1	2		
		"	517	16	2	9		
		एकसना	570	0	0	11		
		मियादी 153 नं.	569	0	2	8		
		कुल क्षेत्रफल =		18	4	2		

क्र.सं.	गांव	तालुक	पाटा नं.	दाग नं.	एरिया		
					बि.	क.	ल. मन्तव्य
18.	उईलतन चाय बागिचा जकाई आसाम चाय कम्पनी लि. गान्ट नं. 22/157 नं. अ, आर (आर) त्रितीय खण्ड 5म और 6 पण्ट खण्ड।	टेंगाखाट	सरकार	9	40	2	14
कुल क्षेत्रफल =					40	2	14

[सं. 12016/3(घ)/90-ओ एन जी-डी-4]

S.O. 2955.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 2036 dated 16-7-91 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And, whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And, further, in exercise of power conferred by sub-section (4) of that section, the Central Government directs that right of user in the said lands shall instead of vesting in the Central Government vests on this date of publication of this declaration in the Assam Gas Company Limited free from encumbrances.

LAND SCHEDULE

Laying of 12" (300 mm)/8" (200 mm)/6" (150 mm) OD underground natural gas pipe line from Duliajan to the tea gardens of Dibrugarh Tea Gas Grid.

Sl. No.	Name of village	Mauza	Patta No.	Dag No.	Area		
					B	K	L
1	2	3	4	5	6		
1.	1 No. Merbil Mazuli Gaon	Kheremia	Waste Land	118	1	1	8
				Total Area	1	1	8
2.	1 No. Cholakataky Gaon	„	P.P. No. 29	58	0	0	6
			P.P. No. 80	59	1	1	12
			P.P. No. 45	70	0	1	19
			P.P. No. 29	72	0	1	9
			P.P. No. 20	69	0	2	0
			P.P. No. 54	68	0	2	0
			P.P. No. 6	156	0	2	4
			P.P. No. 16	154	1	4	3
			P.P. No. 13	155	0	1	17
			P.P. No. 1	153	0	0	18
			P.P. No. 91	161	0	0	11
			P.P.No. 100	367	0	0	11
			P.P.No. 99	368	0	0	13
			P.P. No. 101	369	0	0	15

1	2	3	4	5	6
			P.P. No. 94	165	0 1 1 1
			P.P. No. 35	164	0 0 2
			P.P. No. 35	166	0 2 0
			P.P. No. 12	167	0 2 5
			P.P. No. 33	168	0 2 0
			P.P. No. 52	169	0 4 12
			P.P. No. 40	203	0 0 6
			P.P. No. 26	196	1 1 3
			Annual	195	0 4 4
			P.P. No. 13	194	0 0 9
			Waste Land	63	0 0 6
			Waste Land	62	0 0 18
			P.P. No. 66	191	0 0 15
			Waste Land	192	0 3 13
			Waste Land	192	0 3 13
			Waste Land	64	0 0 6
			Total Area		12 0 8
3. Pavajan Gzon	Kheremia		P.P. No. 57	197	0 2 13
			Waste Land	195	0 0 15
			Waste Land	198	0 1 13
			P.P. No. 38	199	0 3 2
			P.P. No. 40	201	1 0 1
			P.P. No. 58	202	0 1 19
			Annual	208	0 3 13
			P.P. No. 60	209	0 1 8
			P.P. No. 39	210	0 2 4
			P.P. No. 24	211	0 2 8
			P.P. No. 69	212	0 1 8
			P.P. No. 18	214	1 0 3
			P.P. No. 55	216	0 1 17
			P.P. No. 31	219	0 2 2
			P.P. No. 42	251	0 1 13
			P.P. No. 67	252	0 4 1
			P.P. No. 55	224	0 2 0
			P.P. No. 56	223	0 1 13
			P.P. No. 25	227	0 0 18
			P.P. No. 1	225	0 0 18
			P.P. No. 33	226	1 3 5
			P.P. No. 72	186	0 3 13
			P.P. No. 74	228	0 0 13
			P.P. No. 47	229	0 0 13
			P.P. No. 68	182	0 1 17

1	2	3	4	5	6
			P.P. No. 28	236	0 2 13
			P.P. No. 59	237	1 0 10
			P.P. No. 21	238	0 3 4
			P.P. No. 43	239	0 2 4
			P.P. No. 59	240	0 1 2
			P.P. No. 43	241	0 1 2
3. Pavajan Gaon	Kheremia		P.P. No. 23	242	0 1 17
			Waste Land	215	0 1 13
			Total Area		16 0 15
4. 2 No. Pavajan Gaon	„		Waste Land	19	3 0 5
			„	5	0 0 5
			Total Area		3 0 10
5. 1 No. Chetia Pothar Gaon	„		Waste Land	30	0 0 5
			„	4	0 2 10
			Total		0 2 15
6. 2 No. Chetia Pothar Gaon	„		Waste land	179	8 2 9
			„	69	0 0 5
			Annual	191	0 0 11
			P.P. No. 40	204	0 0 11
			Waste Land	212	1 3 17
			„	203	0 0 2
			Total Area		10 2 15
7. Kheremia Gaon	„		Waste Land	454	11 0 13
			„	261	0 0 7
			Total Area		11 1 0
8. Tingrai Chariali Gaon	„		P.P. No. 97	290	0 4 19
			Waste Land	291	0 0 6
			„	292	1 2 15
8. Tingrai Chariali Gaon	Kheremia		P.P. No. 2	293	0 1 0
			P.P. No. 2	335	0 2 13
			P.P. No. 63	297	0 1 16
			P.P. No. 26	308	0 1 2
			P.P. No. 25	309	0 1 2
			P.P. No. 26	334	0 2 13
			P.P. No. 28	325	0 2 2
			P.P. No. 25	324	0 0 11
			Waste Land	327	0 0 6
			„	326	0 0 6
			P.P. No. 68	323	0 2 2
			Waste Land	231	0 0 11
			P.P. No. 68	340	0 1 9
			„ 1	343	0 1 17
			Waste Land	474	6 2 11
			P.P. No. 41	470	0 0 6
			Waste Land	475	2 2 0
			„	522	6 3 4
			Total Area		22 0 11

1	2	3	4	5	6	7
9. Gerekoni Gaon	Kheremia	Waste Land	17	0	0	6
		"	18	0	0	7
		"	19	0	0	4
		"	44	1	0	14
		"	46	3	2	1
		"	68	0	2	2
		"	69	1	1	8
Total Area				6	2	2
10. Tingrai Hola Gaon 2nd Part	Kheremia	Waste Land	54	0	3	4
		Annual	55	0	0	15
		Waste Land	56	0	2	4
		"	57	0	1	8
		"	58	0	4	17
		"	198	0	0	6
		"	199	2	3	18
		"	260	0	1	19
		"	259	0	0	2
		P.P. No. 30	238	0	2	15
		" 30	239	0	0	15
		Waste Land	235	0	0	18
		"	236	0	4	4
		"	242	0	4	15
		"	243	0	2	0
		"	230	3	4	5
Total Area				12	3	5
11. Tingrai Gaon 2nd Part	Kheremia	Waste Land	198	1	2	10
		Tea P.P. No. 1	195	0	1	10
		"	196	0	0	1
		"	197	0	2	11
		P.P. No. 3	109	0	0	1
		" 3	200	0	0	12
		" 3	202	0	0	10
		" 3	204	0	0	6
		P.P. No. 48	205	0	0	11
Total Area				2	3	12
12. Panimodi Gaon	Kheremia	Waste Land	134	17	1	8
Total Area				17	1	8

1	2	3	4	5	6
13. Abhaypuria Gaon	Tengakhat	Waste Land	22	0	0 11
		P.P. No. 230	401	0	2 6
		P.P. No. 30	402	0	0 7
		" 162	403	0	0 7
		" 159	405	0	0 15
		" 46	406	0	0 15
		" 160	409	0	1 15
		" 198	426	0	3 12
		" 46	427	0	0 5
		" 46	428	1	1 5
		" 141	430	0	0 18
		" 110	431	0	1 19
		" 74	432	0	1 4
		" 147	385	0	0 2
		Waste Land	451	0	0 11
		" "	2	0	2 15
		P.P. No. 153	449	0	2 11
		" 153	448	0	1 17
		" 148	450	0	2 24
		" 220	477	0	0 15
		" 59	478	0	3 10
		" 48	442	0	0 18
		" 223	479	0	1 13
		" 142	480	0	0 15
		" 4	481	0	2 4
		" 4	482	0	1 2
		" 197	457	0	1 0
		" 71	486	0	0 5
		Total Area		8	3 1
14. Sungi Gaon	Tengakhat	Waste Land	22	0	0 4
		P.P. No. 99	25	0	0 6
		" 113	28	0	2 10
		Waste Land	30	0	0 6
		" "	133	6	3 9
		Total Area		7	1 15
15. Niz Tengakhat	Tengakhat	Waste Land	136	0	1 6
		P.P. No. 115	137	1	0 6
		" 223	485	0	4 1
		" 223	140	0	2 11
		" 74	131	0	2 10
		" 144	141	0	2 11
		" 3	143	0	1 9
		" 148	145	0	2 10
		" 71	163	0	2 8
		" 71	162	0	1 6

1	2	3	4	5	6	7
15. Niz Tengakhat (Contd.)	Tengakhat	71	161	0	1	13
		75	159	0	3	15
		199	160	0	3	5
		186	179	1	2	18
		186	306	0	3	2
		69	308	0	1	17
		151	309	0	1	9
		112	314	0	1	0
		21	310	0	4	3
		221	343	0	2	4
		157	344	0	0	18
		143	345	0	1	6
	P.P. No. 87		346	0	2	2
	63		347	0	0	17
	141		365	0	1	11
	19		364	0	0	11
	Waste Land		335	5	0	10
	"		334	0	0	11
	"		333	0	0	11
	P.P. No. 213		368	0	1	9
	63		369	0	2	11
	200		377	0	0	7
	7		380	0	4	4
	41		374	0	3	6
	198		373	0	2	4
	Waste Land		372	0	1	0
	P.P. No. 60		130	0	0	5
	71		144	0	0	6
	4		181	0	0	5
	208		182	0	0	5
Total Area-				21	1	13
16. Gondhia Gaon	Tengakhat	P.P. No. 77	324	0	2	0
		105	328	0	2	9
		53	329	0	3	6
		101	331	0	2	10
		104	332	0	1	9
		3	336	0	2	14
		119	337	0	1	7
		110	341	0	2	0
	Waste Land		530	0	0	15
Total Area =				3	3	10

1	2	3	4	5	6		
17. Bhajani Gaon	Tengakhat	P.P. No. 128	558	0	1	1	5
		„ 122	561	0	4	1	1
		Waste Land	564	0	0	7	7
		„	281	0	1	11	11
		„	567	0	1	2	2
		„	517	16	2	9	9
		Annual	570	0	0	11	11
		P.P. No. 153	569	0	2	8	8
Total Area =				18	4	2	
18. Wilton Tea Estate Jokai Assam Tea Company Ltd. Grant No. 22/157 OR(R) 2nd part, 5th part & 6th part	Tengakhat	Waste Land	9	40	2	14	
Total Area —				40	2	14	

[No. 12016/3(D)/90-ONGD-IV]

का. आ. 2956.—यतः पेट्रोलियम और खनिज पार्श्व लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. सं. 2033 तारीख 16-7-91 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पार्श्व लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पार्श्वलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय असम गैस क. लि. में, सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

दुलियाजान से 12" (300 एम. एम)/8" (200 एम. एम)/6" (150 एम. एम) अ दी गैस पार्श्व लाईन डिब्रुगढ़ टि गैस ग्रीड के चाय बागानों के लिए पार्श्व लाईन बिछाना।

क्र. सं.	गांव	तालुक	पाटा नं.	दाग नं.	एरिया			मन्तव्य
					बि.	क.	ल.	
1.	निज मानकता गांव	मानकता	2 नं. चाय मियादी	2	1	4	18	
		खनिकर	„	3	0	0	7	

1	2	3	4	5	6	7
1	निज मानकता गांव	मानकता खनिकर	2 नं चाय मियादी	4	0	1 2
			"	26	1	0 17
			"	27	0	0 7
			"	28	0	4 11
			38 नं. मियादी	29	1	1 1
			117 "	90	0	0 17
			कुल क्षेत्रफल		6	0 0
2.	डेपर गांव	मानकता	सरकार	260	2	3 3
			140 नं. मियादी	263	0	1 6
			88 नं. "	264	0	1 0
			1 नं. चाय मियादी	274	1	0 19
			"	275	0	0 7
			64 नं. मियादी	276	0	0 12
			36 नं. मियादी	277	0	0 16
			4 नं. "	278	0	0 3
			7 नं. "	279	0	0 6
			136 नं. "	280	0	1 9
			114 नं. "	303	0	0 3
			5 नं. "	353	0	0 13
			18 नं. "	418	0	0 17
			सरकार	447	0	3 3
			"	449	3	2 6
			"	450	1	0 11
			"	460	0	0 4
			कुल क्षेत्रफल		10	2 18
3.	मानकता चाय बागिचा	मानकता	गान्ट नं. 1/159	11	4	0 3
	गान्ट नं. 1/159	खनिकर	अ' आर आर			
	अ' आर आर प्रथम, द्वितीय		"	13	0	4 8
	खंड		"	14	0	0 6
			सरकार	79	4	1 10
			गान्ट नं. 1/159 अ'	80	3	4 5
			आर आर			
			कुल क्षेत्रफल		13	0 12
4.	निज खनिकर गांव	मानकता	1 नं. चाय मियादी	2	4	3 17
		खनिकर	सरकार	22	1	4 10
			73 नं. मियादी	23	0	1 17
			31 नं. "	24	0	1 17
			सरकार	25	0	1 6
			69 नं. मियादी	26	0	1 6

1	2	3	4	5	6	7	
4.	जिजी खनिकरगांव	मानकता खनिकर (जारी)	31 नं. " सरकार	27 28	0 0	4 1	8 5
			"	67	0	0	6
			"	47	0	1	2
			31 नं. मियादी	48	0	1	17
			100 नं. "	49	0	1	2
			38 नं. "	50	0	0	15
			7 नं. "	51	0	1	2
			72 नं. "	52	0	1	6
			32 नं. "	53	0	1	2
			सरकार	154	0	2	8
			98 नं. मियादी	157	0	1	2
			सरकार	144	0	0	4
			98 नं. मियादी	158	0	2	17
			81 नं.	161	0	0	17
			" "	162	0	0	17
			78 नं. "	163	0	1	17
			सरकार	164	0	0	10
			58 नं. मियादी	165	0	1	11
			3 नं. मियादी	173	0	0	18
			77 नं. "	174	0	1	4
			1 नं. "	175	0	1	0
			58 नं. "	176	0	0	4
			17 नं. "	187	0	0	9
			4 नं. "	188	0	0	6
			5 नं. "	189	0	0	11
			18 नं. "	190	0	1	4
			71 नं. "	191	0	0	3
			65 नं. "	192	0	0	15
			43 नं. "	193	0	0	15
			सरकार	222	2	4	7
			"	223	8	0	0
				कुल क्षेत्रफल	25	3	7
5.	खनिकर चाय बगीचा	मानकता	2 नं. एल चि आर	38	0	1	4
	2 नं. एल चि आर	खनिकर	गान्ट नं. 1				
			2 नं. एल चि आर	39	0	1	11
			गान्ट नं. 1				
			"	40	2	0	2
			"	47	0	3	6
			"	49	0	3	1
			"	55	0	0	6
			सरकार	58	0	4	10
			2 नं. एल चि आर	63	0	0	4
			गान्ट नं. 1				

1	2	3	4	5	6	7	
5.	खनिकर चाय बग़ाचा 2 न एल चि आर	मानकता खनिकर	सरकार 2 नं. एल चि आर गान्ट नं. 1 "	65 64 69	0 0 0	1 1 0	17 6 2
				कुल क्षेत्रफल	5	2	9
6.	चेचा चाय बगीचा गान्ट नं. 14 153 अ' आर (आर)	मानकता	सरकार " " " 1/153 अ' आर (आर) गान्ट सरकार 1/153 अ' आर (आर) गान्ट " सरकार 1/153 अ' आर (आर) गान्ट " " " सरकार	3 14 15 19 22 27 28 29 41 104 153 102 101 139	0 0 0 0 0 1 1 0 0 0 1 0 2 1	2 2 1 3 1 3 1 0 1 3 3 2 4	4 0 17 2 13 5 1 7 17 9 5 0 9 3
				कुल क्षेत्रफल	12	0	12
7.	घोरामरा गांव	मानकता खनिकर	सरकार "	74 88	0 1	2 2	4 14
				कुल क्षेत्रफल	1	4	18
8.	लेकाई गांव	मानकता खनिकर	सरकार " 2 नं. चाय मियादी 90 नं. मियादी 56 नं. " 43 नं. " 119 नं. " 30 नं. " 91 नं. " 55 नं. मियादी " 48 नं. मियादी	139 2 4 6 7 8 9 10 11 12 13 11	3 0 0 0 0 0 0 0 0 0 0 0	3 1 0 0 0 0 0 0 2 2 0	17 7 12 4 10 9 13 6 11 4 2 2 6

1	2	3	4	5	6	7
लेहई गांव	मानकता	44 न.	66	0	3	4
(जारो)	ख निफर	48 न.	125	0	2	2
		" "	126	0	2	7
		41 न.	124	0	4	11
		55 न.	128	0	0	14
		सरकार	130	0	1	0
		41 न. मियादी	163	0	2	15
		36 न.	164	0	1	9
		" "	165	0	1	15
		सरकार	268	0	4	13
		1 न. चाय धिदी	269	7	3	1
		36 न. मियादी	276	0	0	11
		1 न. चाय मियादी	278	2	0	1
		सरकार	259	0	3	2
		13 न. मियादी	258	0	1	6
		" "	257	0	1	6
		70 न.	256	0	2	15
		सरकार	255	0	1	11
		70 न. मियादी	258	0	1	2
		1 न. चाय मियादी	241	0	0	11
		" "	242	0	2	11
		सरकार	243	0	2	15
		71 न. मियादी	245	0	4	10
		सरकार	248	0	1	11
		35 न. मियादी	249	0	1	17
		78 न.	252	0	3	17
		1 न. चाय मियादी	238	0	1	6
		99 न. मियादी	239	0	3	10
		127 न. मियादी	240	0	1	9
		सरकार	326	0	0	9
		51 न. मियादी	339	0	1	13
कुल क्षेत्रफल				20	3	19
9. बरबगपारा गांव	मानकता	1 न. चाय मियादी	55	1	0	16
	ख निफर	" "	56	0	0	13
		8/185 नं. गारुट	59	1	1	18
		अ'भार (भार)				
		"	62	2	1	18
		"	63	2	1	4
		"	75	0	4	1
		"	76	1	1	12
		"	64	1	4	13
		"	73	0	2	2
		"	72	2	2	6
कुल क्षेत्रफल				14	1	3

1	2	3	4	5	6	7
10. रहमरिया गांव	जामिरा	1 नं. चाय मियादी	94	5	4	18
		" "	88	0	3	16
		" "	89	0	4	11
		सरकार	96	0	0	7
		कुल क्षेत्रफल		7	3	12
11. कछारी गांव	जामिरा	सरकार	14	0	0	1
		2 नं. चाय मियादी	126	11	1	16
		कुल क्षेत्रफल		11	1	17
12. काठ गांव	मानकता खनिकर	सरकार	8	0	0	7
		"	9	0	0	7
		6 नं. मियादी	12	0	0	18
		" "	24	0	0	13
		" "	31	0	3	17
		" "	47	0	3	1
		7 नं. मियादी	21	1	0	2
		11 नं. "	20	0	2	4
		9 नं. "	33	0	2	10
		12 नं. मियादी	32	0	2	5
12. सेफाई गांव	मानकता खनिकर	1 नं. चाय मियादी	36	0	0	18
		"	37	3	0	12
		"	46	0	2	11
		"	59	0	4	15
		"	49	2	2	18
		"	61	0	0	18
		"	60	1	1	15
		"	56	1	1	12
		"	57	0	3	6
		"	50	0	0	7
		"	53	0	2	4
		सरकार	58	0	1	0
		कुल क्षेत्रफल		15	4	10
13. बरपथार कोंवर गांव	जामिरा	1 नं. चाय मियादी	798	1	4	0
		एकसना	408	0	0	9
		सरकार	407	0	1	7
		"	852	0	1	12
		"	944	1	2	0
		"	447	0	2	8
		28 नं. मियादी	929	0	0	2
		सरकार	786	0	0	1
		कुल क्षेत्रफल		4	1	19

1	2	3	4	5	6	7
14.	लेपेतकता चाय बागीचा लेपेतकता चाय की लि.: गान्ट नं. 60 एफ एस, 71 न. एन एल, आई 1	लरीना	सरकार	24	2	1 7
			कुल क्षेत्रफल		3	1 7
15.	लेपेतकता बागान लेपेतकता चाय की लि:	लरीना	सरकार	11	5	2 0
			कुल क्षेत्रफल		5	2 0
16.	नाहुरहाकी कोंवर गांव	जामिरा	सरकार	522	0	4 12
			कुल क्षेत्रफल		0	4 12
17.	बुराहाजार कोंवर गांव	जामिरा	सरकार	459	22	4 3
			सरकार	405	2	3 17
			कुल क्षेत्रफल		25	3 0
18.	डिब्रुवाल दिहिंगिया गांव	जामिरा	सरकार	909	1	4 0
		"		891	0	1 0
		"		881	1	1 0
		"		849	1	2 12
		"		894	0	1 0
		"		844	0	3 13
		22 न. मियादी		921	0	1 0
			कुल क्षेत्रफल		5	4 5
19.	बरखरवा चाय बागीचा आपार आसाम चाय की लि: 13/176 न. अर आर आर (खण्ड) गान्ट ।	जामिरा	सरकार	43	4	1 17
			"	89	0	1 0
			कुल क्षेत्रफल		4	2 17
20.	बिहार्डिंग चाय बागीचा । वेईनंच चाय की गान्ट । 2 नं. एन, एल, आर आर आपार आसाम चाय की । बरखरवा गान्ट नं. 13/176 अ, आर (आर)	जामिरा	सरकार	92	14	1 12
		"		81	3	0 18
		13/174 एन एल, आर		48	1	0 11
		2 नं. चाय मियादी		51	0	0 2
		"		53	1	0 8
		" "		47	0	0 14
		" "		44	0	0 1
		" "		45	1	1 15
		" "		56	2	3 0
		" "		54	2	4 19
			कुल क्षेत्रफल		25	4 0

1	2	3	4	5	6	7
21. दार्शनिकान गांव	मानकता खनिकर	सरकार	330	4	1	19
		28 न. मियादी	229	0	1	13
		82 न. मियादी	228	0	2	0
		"	190	0	2	0
		सरकार	134	0	0	7
		"	47	4	0	8
		"	46	6	0	13
		"	94	0	0	7
		"	95	0	0	6
		"	100	5	0	14
कुल क्षेत्रफल				21	0	7

[सं. 12016/3 (अ)/90-ओ एन जी-डी-4]

S.O. 2956.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 2033 dated 16-7-91 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that right of user in the said lands shall instead of vesting in the Central Government vests on this date of publication of this declaration in the Assam Gas Company Limited free from encumbrances.

Laying of 12" (300 mm)/8" (200 mm) 6" (150 mm) O.D. under ground natural gas pipe line from Duliajan to the Tea Gardens of Dibrugarh gas grid.

Sl. No.	Name of Village	Mauza	Pata No.	Dag No.	Area		
					B	K	L
1.	Nizmankatta Village	Mankatta Khanekor	T.P.P. No. 2	2	1	4	18
		"	T.P.P. No. 2	3	—	—	7
		"	T.P.P. No. 2	4	—	1	2
		"	-do-	26	1	—	17
		"	-do-	27	—	—	7
		"	-do-	28	—	4	11
		"	P.P. No. 38	29	1	1	1
		"	P.P. No. 117	90	—	1	17
Total Area					6	0	0
2.	Tapor Village	Mankatta	Wast land	260	2	3	3
		"	P.P. No. 140	263	—	1	6
		"	P.P. No. 88	264	—	1	0
		"	T.P.P. No. 1	274	1	—	19
		"	"	275	—	—	7

1	2	3	4	5	6	7
		Mankatta	P.P. No. 64	276	—	12
		"	P.P. No. 36	277	—	16
		"	P.P. No. 4	278	—	3
		"	P.P. No. 7	279	—	6
		"	P.P. No. 136	280	—	9
		"	P.P. No. 114	303	—	3
		"	P.P. No. 5	353	—	13
		"	P.P. No. 18	418	—	17
		"	wast land	447	—	3
		"	wast land	449	3	6
		"	"	450	1	11
		"	"	460	—	4
			Total Area		10	18
3. Mankotta Chabagicha	Mankotta	Grant No.				
grant No. 1/159 O.R.	Khonekor	1/159 OR (R)	11	4	—	3
(R) 1st part and 2nd	"	"	13	—	4	8
part	"	"	14	—	—	6
	"	wast land	79	4	1	10
	"	Grant No.				
		1/159 O.R. (R)	80	3	4	5
		Total Area		13	—	12
4. Niz Khanekor Village	"	T.P.P. No. 1	2	4	3	17
	"	wast land	22	1	4	10
	"	P.P. No. 73	23	—	1	17
	"	P.P. No. 31	24	—	1	17
	"	wast land	25	—	1	6
	"	P.P. No. 69	26	—	1	6
	"	P.P. No. 31	27	—	4	8
	"	wast land	28	—	1	5
	"	"	67	—	—	6
	"	"	47	—	1	2
	"	P.P. No. 31	48	—	1	17
	"	P.P. No. 100	49	—	1	2
	"	P.P. No. 38	50	—	—	15
	"	P.P. No. 7	51	—	1	2
	"	P.P. No. 72	52	—	1	6
	"	P.P. No. 32	53	—	1	2
	"	wast land	154	—	2	8
	"	P.P. No. 98	157	—	1	2
	"	wast land	144	—	—	4
	"	P.P. No. 98	158	—	2	17
	"	P.P. No. 81	161	—	—	17
	"	"	162	—	—	17
	"	P.P. No. 78	163	—	1	17
	"	wast land	164	—	—	10
	"	P.P. No. 58	165	—	1	11
	"	P.P. No. 3	173	—	—	18
	"	P.P. No. 77	174	—	1	4
	"	P.P. No. 1	175	—	1	0

1	2	3	4	5	6	7
4. Nizkhanekor Village	Mankotta	P.P. No. 58	176	—	—	4
	Khonekor	P.P. No. 17	187	—	—	9
	"	P.P. No. 4	188	—	—	6
	"	P.P. No. 5	189	—	—	11
	"	P.P. No. 18	190	—	1	4
	"	P.P. No. 71	181	—	—	13
	"	P.P. No. 65	192	—	—	15
	"	P.P. No. 43	193	—	—	15
	"	wast land	222	2	4	7
	"	"	223	8	—	—
	"	—	—	—	—	—
Total Area			—	25	3	7
5. Khanekor Chabagicha	"	2 No. L.C.R.				
2 No. L.C.R. Grant	"	grant No. 1	38	—	1	4
	"	-do-	39	—	1	11
	"	-do-	40	2	—	2
	"	-do-	47	—	3	6
	"	-do-	49	—	3	1
	"	-do-	55	—	—	6
	"	wast land	58	—	4	10
	"	2 No. LCR	63	—	—	4
	"	grant No. 1				
	"	Wast land	65	—	1	17
	"	2 No. LCR	64	—	1	6
	"	grant No. 1				
	"	-do-	69	—	—	2
Total Area				5	2	9
6. Sessa Chabagicha	Mankotta	wast land	3	—	2	4
grant No. 14/153 OR(R)	"	-do-	14	—	2	—
	"	-do-	15	—	1	17
	"	-do-	19	—	3	2
	"	1/153 OR (R) grant	22	—	1	13
	"	wast land	27	1	3	5
	"	1 OR(R) 153 grant	28	1	1	1
	"	-do-	29	—	—	7
	"	wast land	41	—	1	17
	"	1/153 OR(R) grant	104	—	3	9
	"	"	103	1	3	5
	"	"	102	—	2	—
	"	"	101	2	—	9
	"	wast land	139	1	4	3
	"	—	—	—	—	—
Total Area				12	—	12
7. Ghuramora Village	Mankotta	wast land	74	—	2	4
	Khonekor					
	"	"	88	1	02	24
Total Area				1	4	18

1	2	3	4	5	6	7	8
8. Lakai Village	Mankotta Khonekor	Wast land	139		3	3	17
	"	"	2		—	1	7
	"	T.P.P. No. 2	4		—	—	12
	"	P.P. No. 90	6		—	1	4
	"	" 56	7		—	—	10
	"	" 43	8		—	—	9
	"	" 119	9		—	—	13
	"	P.P. No. 30	10		—	—	6
	"	P.P. No. 91	11		—	—	11
	"	P.P. No. 55	12		—	2	4
	"	Do	13		—	2	2
	"	P.P. No. 48	14		—	—	6
	"	P.P. No. 44	66		—	3	4
	"	P.P. No. 48	125		—	2	2
	"	Do	126		—	2	7
	"	P.P. No. 41	124		—	4	11
	"	P.P. No. 55	128		—	—	14
	"	wast land	130		—	1	0
	"	P.P. No. 41	163		—	2	15
	"	P.P. No. 36	164		—	1	9
	"	Do	165		—	1	15
	"	wast land	268		9	4	13
	"	PP No. 1	269		7	2	2
	"	P.P. No. 36	276		—	—	11
	"	P.P. No.	278		2	—	1
	"	wast land	259		—	3	2
	"	P.P. No. 13	258		—	1	6
	"	Do	257		—	1	6
	"	P.P. No. 70	256		—	2	15
	"	wast land	255		—	1	11
	"	P.P. No. 70	258		—	1	2
	"	T.P.P. No. 1	241		—	—	11
	"	Do	242		—	2	11
	"	wast land	243		—	2	15
	"	P.P. No. 71	245		—	4	10
	"	Wast land	248		—	1	11
	"	P.P. No. 35	249		—	1	17
	"	P.P. No. 78	252		—	3	17
	"	T.P.P. No. 1	238		—	1	6
	"	P.P. No. 99	239		—	3	10
	"	P.P. No. 127	240		—	1	9
	"	wast land	326		—	—	9
	"	P.P. No. 51	33		—	1	13
		Total Area	—		20	3	19
9. Borbogpora Village	"	P.P. Bo. 1	55		1	—	16
	"	Do	56		—	—	13
	"	8/185 No. O.R.R. grant	59		1	1	18

1	2	3	4	5	6	7	8
9. Borbogpora Village	Mankotta Khonekor	8/185 No. ORR grant	62		2	1	18
	"	Do	63		2	1	4
	"	Do	75		—	4	1
	"	Do	76		1	1	12
	"	Do	64		1	4	13
	"	Do	73		—	2	2
	"	Do	72		2	2	6
		Total Area			14	1	3
10. Rohmari Village	Jamera	T.P.P. No. 1	94		5	4	18
	"	Do	88		—	3	16
	"	Do	89		—	4	11
	"	wast land	96		—	—	7
		Total Area			7	3	12
11. Kachari Village	Jamera	wast land	14		—	—	1
	"	T.P.P. No. 2	126		11	1	16
		Total Area			11	1	17
7. Keth Village	Mankotta Khonekor	wast land	8		—	—	7
	"	"	9		—	—	7
	"	P.P. No. 6	12		—	—	18
	"	"	24		—	—	13
	"	"	31		—	3	17
	"	"	47		—	3	1
	"	P.P. No. 7	21		1	—	2
	"	P.P. No. 11	20		—	2	4
	"	P.P. No. 9	33		—	2	10
	"	P.P. No. 12	32		—	2	15
	"	T.P.P. No. 1	36		—	—	18
	"	Do	37		3	—	12
	"	Do	46		—	2	11
	"	Do	59		—	4	15
	"	Do	49		2	2	18
	"	Do	61		—	—	18
	"	Do	60		1	1	15
	"	Do	56		1	1	12
	"	Do	57		—	3	6
	"	Do	50		—	—	7
	"	Do	53		—	2	4
	"	wast land	58		—	1	0
		Total Area			15	4	10
13. Borpathar Konwar Village	Jamera	T.P.P. No. 1	798		1	4	—
	"	Annual	408		—	—	9
	"	wast land	407		—	1	7
	"	Do	852		—	1	12
	"	Do	944		1	2	—
	"	Do	447		—	2	8
	"	P.P. No. 28	929		—	—	2
	"	wast land	786		—	—	1
		Total Area			4	1	19

1	2	3	4	5	6	7	8
14.	Lapatkotta Chabagicha Lapatkotta Cha Co. Ltd. grant No. 60 F.S. and 71 N.L.R.	Larua	wast land	24	3	1	7
15.	Lapatkotta Bagan Lapatkotta Cha Co. Ltd.	Laura	wast land	11	5	2	—
16.	Nohazar Konwar Village	Jamera	Wast land	522	—	4	12
17.	Burahazar Konwar Village	Jamera	Wast land	459	22	4	3
			„	405	2	3	17
			Total Area		25	3	0
18.	Dibruwal Dehingia Village	Jamera	Wast land	909	1	4	0
			„	891	—	1	0
			„	881	1	1	0
			„	849	1	2	12
			„	894	—	1	0
			„	844	—	3	13
			P.P. No. 22	921	—	1	0
			—	—	—	—	—
			Total Area		5	4	5
19.	Barbaruah Chabagicha Upper Assam Tea Co. Ltd. 13/176 No. O.R.R. (Part) grant.	Jamera	Wast land	43	4	1	17
			„	89	—	1	—
			Total Area		4	2	17
20.	Beheiating Tea Estate Briens Tea Co's grant No. 2 N.L.R. and Upper Assam Tea Co.'s Baroarua grant No. 13/176 O.R. (R)	Jamera	wast land	92	14	1	12
			„	81	3	—	18
			13/174 N.L.R.	48	1	—	11
			T.P.P. No. 2	51	—	—	2
			„	53	1	—	8
			„	47	—	—	14
			„	44	—	—	1
			„	45	1	1	15
			„	56	2	3	0
			„	54	2	4	19
			Total Area		25	4	0
21.	Dainejan Village	Mankotta Khonekor	wast land	330	4	1	19
		„	P.P. No. 28	229	—	1	13
		„	P.P. No. 82	228	—	2	—
		„	Do	190	—	2	—

1	2	3	4	5	6	7	8
Dainejan Village (Contd.)	Mankotta Khonekor	wast land		134	—	—	7
	„	Do		47	4	—	8
	„	Do		46	6	—	13
	„	Do		94	—	—	7
	„	Do		95	—	—	6
	„	Do		100	5	—	14
Total Area				—	21	—	7

[No. 12016/3(A)/90-ONG D-IV]

का.आ. 2957 :- यतः पेट्रोलियम और खनिज पाईप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ.सं. 2035 तारीख 16-7-91 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिये अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः समक्ष प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्द्वारा अर्जित किया जाता है।

और आगे इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय असम गैस क.लि.में सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

उईततन गान्ट के (गान्ट नं. 11 एल जि.) उईल खाद से 8" (200 एम.एम.)/4" (100 एम.एम.)/2" (50 एम.एम.) ज. की पाईप लाईन डिब्रूगड़ टि गैस ग्रीड के चाय बागानों के लिए पाईप लाईन बिछाना।

राज्य—आसाम

जिला—डिब्रूगड़

तालुक—टंगाखाट।

क.सं.	गांव	पाटा नं.	वाग नं.	एरिया			मन्तव्य
				बि.	क.	ल.	
1	2	3	4	5	6	7	
1.	राम कानाई गांव	सरकार	52	0	4	12	
		सरकार	53	1	2	7	
		सरकार	59	1	0	3	
			कुल क्षेत्रफल	3	2	2	
1.	बाचमतिया चाय बागिचा	सरकार	10	0	0	7	
		1 नं. चाय मियादी	14	0	0	3	
		1 नं. चाय मियादी	16	0	1	5	
		„	17	0	1	0	

1	2	3	4	5	6	7
	1 नं चाय मियादी	18	0	0	8	
	"	19	0	0	19	
	"	22	0	0	18	
	"	23	0	1	5	
	"	24	0	2	4	
	"	28	0	1	10	
	"	49	1	3	13	
कुल क्षेत्रफल			3	2	12	
1.	कांख गांव	सरकार	131	4	0	14
		सरकार	115	10	4	10
		सरकार	404	4	3	10
कुल क्षेत्रफल			19	3	14	
1.	चुगि गांव	सरकार	19	0	2	19
		सरकार	22	2	0	11
		सरकार	24	0	0	10
कुल क्षेत्रफल			2	4	0	

[सं. 12016/3 (ग)/90-प्रो. एन. जी. डी.-IV]

S.O. 2957.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 2035 dated 16-7-91 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that right of user in the said lands shall instead of vesting in the Central Government vests on this date of publication of this declaration in the Assam Gas Company Limited free from encumbrances.

LAND SCHEDULE

Laying of 8" (200 m.m.) /4" (100 m.m.) /2" (50 m. m.) O. D. under ground Natural Gas Pipeline from OIL's well of Wilton Grant (Grant No. 11 L.G.) to the tea estates of Dibrugarh Gas Grid.
State—Assam District—Dibrugarh Mouza—Tengakhata

Sl. No.	Name of Village	Patta No.	Dag. No.	Area			Remarks
				B.	K.	L.	
1.	Ram Kanai Goan	Waste Land	52	0	4	12	
		Waste-Land	53	1	2	7	
		—do—	59	1	0	3	
Total Area—				3	2	2	

1	2	3	4	B.	K.	L.
1. Basmotia Tea Estate	Waste-Land	10	0	0	7	
	1 No. Tea Periodical	14	0	0	3	
	1 No. Tea Periodical	16	0	1	5	
	—do—	17	0	1	0	
	—do—	18	0	0	8	
	—do—	19	0	0	12	
	—do—	22	0	0	18	
	—do—	23	0	1	5	
	—do—	24	0	2	4	
	—do—	28	0	1	10	
	—do—	49	1	3	13	
	Total Area—		3	2	12	
1. Kash Gaon	Waste-Land	131	4	0	14	
	Waste-Land	115	10	4	10	
	—do—	404	4	3	10	
	Total Area	19		3	14	
1. Sungi Gaon	Waste-Land	19	0	2	19	
	Waste-Land	22	2	0	11	
	—do—	24	0	0	10	
	Total Area—		2	4	0	

[No. 12016/3(c)/90-ONGD-IV]

का.आ. 2958 :- यतः पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ. सं. 2034 तारीख 16-7-91 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिये अर्जित करने का अपना आशय घोषित कर दिया था ।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है ।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है ।

अब अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्-द्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है ।

और आगे इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय असम गैस क.लि. में, सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा ।

अनुसूची

दुलियाजान से 12" (300 एम.एम.)/8" (200 एम.एम.)/6" (150 एम.एम.) अ.दो पाइप लाइन डिब्रुगढ़ टि गैस ग्रीड के साथ बागानों के लिये गैस पाइप लाइन बिछाना ।

क्र. सं.	गांव	तालुक	पाटा नं.	दाग नं.	एरिया			मन्तव्य
					बि.	क.	ल.	
1.	डिकम चेचा चाय बागिचा	मवारखाट	सरकार	65	2	4	6	
			"	64	2	2	18	

गान्ट नं. 15/154	॥	70	0	4	8	
अ अर (अर)	॥	72	6	2	6	
प्रथम और द्वितीय भाग	॥	100	29	1	4	
		<hr/>				
कुल क्षेत्रफल			42	0	2	
<hr/>						
2. लाहोवाल चाय बागिचा लाहोवाल	सरकार	37	0	0	15	
	27/148 अ' अर	72	0	0	2	
	(अर)					
गान्ट नं. 27/148	॥	71	0	0	18	
अ' अर (अर)	॥	75	2	3	2	
प्रथम द्वितीय,	॥	81	3	4	7	
तृतीय भाग	॥	63	7	1	10	
	॥	114	0	0	15	
		<hr/>				
कुल क्षेत्रफल—			14	1	9	
<hr/>						
3. खरीकटिया गांव	मदारखाट	30 नं. गान्ट	14	0	4	15
		140 नं.				
	सरकार		15	0	0	10
	30 नं. गान्ट		16	1	2	10
	139 नं.					
	56 नं. मियादी		116	2	2	6
	14 नं. मियादी		118	0	3	5
	58 नं. मियादी		181	0	2	3
	॥		225	1	1	16
	53 नं. मियादी		240	1	0	8
	एकसता		277	0	1	18
	॥		293	0	1	19
	50 नं. मियादी		294	0	1	12
	11 नं. मियादी		351	0	2	16
<hr/>						
3. खरीकटिया गांव	मदारखाट	30 नं. मियादी	323	0	1	9
	सरकार		353	0	0	8
	॥		334	0	3	10
	॥		312	6	3	7
	॥		312	0	0	6
	30 नं. मियादी		321	0	2	10
	11 नं. मियादी		397	0	0	14
	58 नं. मियादी		295	0	0	11
	2 ॥ चाय,,		241	0	0	6
	॥ ॥ ॥ ॥		224	0	2	4
		<hr/>				
कुल क्षेत्रफल—			19	1	3	
<hr/>						
4. गेंहाई गांव	मदारखाट	सरकार	397	7	2	18

5.	हाथिचूक गांव	मदारखाट	सरकार	200	4	2	5
			"	188	2	3	14
			"	229	1	0	2
			"	183	3	4	0
			17 नं. मियादी	440	1	0	3
			सरकार	442	0	0	4
			1 चाय मियादी	443	0	1	8
			17 नं. "	445	0	4	1
			सरकार	191	0	0	7
			"	198	0	0	9
			कुल क्षेत्रफल—		14	1	13
6.	हातखोला गांव	मदारखाट	सरकार	479	5	0	6
			"	480	4	2	12
			कुल क्षेत्रफल		9	2	18
7.	मेलेंगियाल गांव	मदारखाट	सरकार	290	7	1	9
			"	451	7	4	4
8.	मेलेंगियाल गांव	मदारखाट	सरकार	578	0	0	18
			कुल क्षेत्रफल		15	1	6
9.	हंगपुरिया गांव	मदारखाट	1 नं. चाय मियादी	22	1	4	3
			1 नं. मियादी	33	0	1	10
			35 "	34	0	0	10
			15 "	36	0	0	15
			37 नं. मियादी	73	0	0	13
			36 नं. मियादी	74	0	0	17
			35 नं. मियादी	75	0	0	17
			सरकार	79	0	0	19
			30 नं. मियादी	80	0	0	12
			34 "	81	0	0	14
			सरकार	83	0	2	1
			18 नं. मियादी	85	0	0	7
			16 "	93	0	0	5
			6 "	94	0	0	17
			सरकार	100	2	0	2
			8 नं. मियादी	101	0	0	7
			66 "	103	0	1	0
			" नं. मियादी	105	0	0	14
			32 नं. "	106	0	1	1
			32 "	114	0	2	10
			सरकार	138	0	3	0
			"	174	2	4	15

1	2	3	4	5	6	7
		23 नं. मियादी	225	0	0	12
		सरकार	261	2	3	7
		"	288	1	1	1
		कुल क्षेत्रफल—		14	3	9
9.	चैंगेलिजान चाय बागिचा गान्ट नं. 26 एफ.एच.	मदारखाट एम.एच.नं. 26	23	1	4	5
		सरकार	26	0	3	7
		सरकार	28	1	0	8
		कुल क्षेत्रफल—		3	3	0
10.	सामोलबारी चाय बागिचा	मदारखाट 1 नं. चाय मियादी	45	0	0	10
		"	46	3	1	6
		सरकार	47	0	0	11
		1 नं. चाय मियादी	48	0	4	8
		"	49	3	1	14
		"	50	1	0	10
		"	53	0	0	11
		"	54	0	4	4
		"	56	0	1	17
		"	58	0	1	9
		"	59	0	2	11
		"	62	1	2	5
		कुल क्षेत्रफल—		12	2	1
11.	रुमाई बंगालि गांव	मदारखाट सरकार	1	0	2	15
		15 नं. मियादी	2	0	0	11
		सरकार	3	0	2	10
		"	4	0	2	7
		109 नं. मियादी	41	0	2	11
		"	42	0	0	18
		सरकार	83	5	3	14
		30 नं. मियादी	59	0	0	9
		सरकार	58	0	0	10
		119 नं. मियादी	54	0	0	8
		67 नं. मियादी	55	0	0	2
		सरकार	56	0	0	6
		सरकार	30	0	1	8
		सरकार	12	0	1	19
		4 नं. मियादी एफ एच	6	0	1	17
		कुल क्षेत्रफल—		9	2	5

1	2	3	4	5	6		
12.	रुमाई गांव	मदारखाट	सरकार	2	0	1	16
			"	18	1	3	3
			सरकार	37	2	1	14
			"	450	2	2	9
			"	503	0	1	13
			"	495	1	1	19
			कुल क्षेत्रफल—		8	2	14
13.	2 नं. चिरिंगहोला गांव	मदारखाट	सरकार	307	1	3	17
			कुल क्षेत्रफल —		1	3	17
14.	तेपरखालि बाम गांव प्रथम, द्वितीय खण्ड	"	सरकार	3	3	4	18
		मदारखाट	"	115	8	3	6
			कुल क्षेत्रफल—		12	3	4
15.	बाजमतिया बागिचा	"	1 नं. चाय मियादी	2	1	0	17
			"	3	0	0	5
			"	6	0	0	1
			सरकार	7	5	3	6
			1 नं. चाय मियादी	10	3	0	4
			"	13	0	0	8
			"	14	0	0	5
			कुल क्षेत्रफल—		10	0	6
16.	नाहरहाको गांव	मदारखाट	सरकार	214	2	2	0
			"	215	2	2	15
			122 नं. मियादी	213	0	2	15
			कुल क्षेत्रफल—		5	2	10
17.	बेंगेलिजान-गांव	मदारखाट	8 नं. मियादी	8	0	0	18
			1 नं. चाय मियादी	10	0	4	12
			"	11	0	0	15
			8 नं. मियादी	12	1	1	12
			"	24	0	0	17
			"	39	1	4	11
			"	41	0	3	10
			कुल क्षेत्रफल—		5	1	15
18.	दिब्रुवाल सांगमाई गांव	लाहोवाल	72 नं. मियादी	369	0	1	19
			76 नं. "	366	0	2	11
			सरकार	365	0	0	6
			2 नं. मियादी	364	0	1	3
			एकमना 6 नं.	320	0	3	2

1	2	3	4	5	6	7	8
18.	दिब्रुवाल सांगमाई गांव लाहोवाल	88 नं. मियादी	321	0	1	13	
		104 " "	323	0	1	17	
		35 नं. मियादी	360	0	1	15	
		19 " "	359	0	1	19	
		33 " "	327	0	2	2	
		सरकार	229	0	0	7	
		9 नं. मियादी	335	0	2	15	
		28 नं. "	334	0	3	8	
		56 " "	333	0	1	6	
		9 " "	335	0	2	8	
		81 " "	336	0	1	14	
		106 " "	345	0	0	14	
		47 नं. मियादी	339	0	1	11	
		सरकार	334	0	0	4	
		47 नं. मियादी	343	0	0	2	
		80 नं. मियादी	342	0	1	13	
		47 " "	295	0	3	2	
		80 नं. मियादी	341	0	3	1	
		27 " "	293	0	0	9	
		52 " "	294	0	4	6	
		54 " "	290	0	1	6	
		86 " "	294	0	0	2	
		58 नं. मियादी	287	0	1	4	
		52 नं. "	286	0	1	0	
		76 " "	285	0	1	6	
		58 नं. मियादी	252	0	1	2	
		39 " "	253	0	1	6	
		93 नं. मियादी	193	0	1	4	
		5 " "	281	0	1	2	
		9 नं. मियादी	280	0	1	11	
		4 " "	192	0	0	11	
		66 " "	254	0	1	4	
		10 " "	191	0	1	17	
		77 नं. मियादी	256	0	1	17	
		39 नं. "	257	0	1	0	
		66 " "	258	0	1	0	
		9 " "	259	0	1	0	
		61 " "	278	0	1	1	
		40 " "	260	0	0	1	
		7 " "	277	0	0	13	
		93 " "	276	0	0	15	
		115 नं. मियादी	271	0	1	13	
		7 नं. मियादी	273	0	1	0	
		46 नं. मियादी	272	0	0	18	
		71 नं. मियादी	265	0	1	11	
कुल क्षेत्रफल				14	2	17	

1	2	3	4	5	6	7	8
19.	बकुल माज गांव	लाहोवाल	29 नं. मियादी	653	0	0	13
			74 " "	652	0	3	17
			सरकार	634	0	0	4
			116 नं. मियादी	628	1	1	18
			175 " "	627	0	0	5
			20 " "	626	0	0	2
			77 " "	624	0	2	3
			78 " "	625	0	0	11
			13 " "	561	0	2	11
			119 " "	623	0	1	13
			119 " "	562	0	3	17
			170 " "	563	0	2	8
			119 " "	564	0	1	6
			195 " "	565	0	0	18
			119 " "	566	0	1	10
			195 " "	567	0	0	18
			119 " "	568	0	1	0
			12 " "	570	0	2	8
			3 " "	553	0	2	4
			1 " "	552	0	1	17
			2 " "	572	0	1	9
			173 " "	573	0	1	11
			44 " "	575	0	1	6
			163 " "	576	0	2	4
			2 " "	548	0	0	18
			4 नं. मियादी	578	0	1	9
			147 नं. मियादी	579	0	2	8
			150 नं. मियादी	546	0	4	3
			100 नं. मियादी	544	0	2	15
			4 नं. मियादी	543	0	1	2
			54 नं. मियादी	581	0	1	8
			53 नं. मियादी	541	0	2	4
			85 नं. मियादी	589	0	1	17
			50 नं. मियादी	588	0	2	11
			194 नं. मियादी	592	0	1	4
			सरकार	240	0	0	11
			58 नं. मियादी	650	0	0	7
			कुल क्षेत्रफल		13	1	10
20.	लाहोवाल चाय बगीचा	लाहोवाल	19/155 अ.प्रार.	72	2	2	9
	जकाई आसाम चाय कोम्पनि		(प्रार.) ग्रान्ट				
	मि.एल.चि. 19/155		सरकार	73	0	1	11
	अ.प्रार. (प्रार.) ग्रान्ट		19/155 अ.प्रार.	38	1	4	2
	प्रथम खण्ड और		(प्रार.) ग्रान्ट				

1	2	3	4	5	6	7
	लाहोवाल चाय बगीचा	19/155 अ.आर.	25	5	2	12
	7 नं. एल.चि. 19/155	(आर.) ग्रांट	41	0	2	14
	अ. आर. (आर.) ग्रांट।	"	79	0	2	10
		7 नं. एल.चि.	50	0	0	15
		सरकार	36	2	0	2
		7 नं. एल.चि.	77	0	0	6
		सरकार	71	1	0	4
		7 नं. एल.चि.	48	0	3	3
		"	44	0	4	6
		"	45	0	2	1
		"	69	1	4	3
		कुल क्षेत्रफल—		17	3	18
21. लाहोवाल पात्र गांव	लाहोवाल	सरकार	529	0	1	15
		सरकार	531	0	3	13
		"	455	0	1	17
		"	558	4	4	16
		"	590	3	3	1
		"	565	1	2	15
		"	530	1	1	4
		"	535	0	0	11
		कुल क्षेत्रफल		12	4	12
22. निज लाहोवाल	लाहोवाल	सरकार	563	10	2	15
		224 न. मियादी	606	2	1	18
		कुल क्षेत्रफल		12	4	13
23. निज मईडमिया	लाहोवाल	सरकार	459	0	0	5
		"	437	0	0	7
		"	436	0	0	18
		5 न. मियादी	438	0	1	4
		1 न. चाय मियादी	343	0	2	12
		सरकार	478	1	2	10
		"	174	4	4	11
		"	319	0	3	9
		"	275	0	2	6
		"	276	0	0	4
		"	277	0	0	13
		"	260	0	2	17
		"	184	0	0	11
		"	182	0	2	4
		"	183	0	0	15
		2 न. चाय मियादी	3	4	1	15
		1 न. चाय मियादी	4	0	1	2
		1 न. चाय मियादी	5	1	4	8
		सरकार	432	0	0	9
		कुल क्षेत्रफल		16	3	0

1	2	3	4	5	6	7	8
24.	मठादारि गांव	लाहोवाल	11 नं. मियादी	113	0	0	9
			28 नं. मियादी	115	0	0	11
			28 नं. मियादी	126	0	1	8
			सरकार	122	0	0	5
			सरकार	131	0	0	17
			16 नं. मियादी	139	0	0	8
			सरकार	147	1	0	0
			"	151	0	2	2
			"	203	0	4	10
			"	202	0	0	6
			कुल क्षेत्रफल		3	0	16
25.	मिरिपथार गांव	लाहोवाल	सरकार	76	6	3	18
			सरकार	135	2	1	2
			29 नं. मियादी	132	0	0	15
			सरकार	138	0	0	18
			सरकार	140	0	0	14
			25 नं. मियादी	141	0	2	0
			110 नं. मियादी	152	0	1	13
			118 नं. मियादी	153	0	2	7
			89 नं. मियादी	264	0	1	13
			73 नं. मियादी	267	0	1	12
			58 नं. मियादी	270	0	2	10
			65 नं. मियादी	273	0	1	16
			सरकार	180	0	0	10
			84 नं. मियादी	375	0	0	5
			6 नं. "	376	0	1	9
			6 नं. "	377	0	4	12
			36 नं. "	381	0	3	12
			5 नं. "	371	0	2	2
			5 नं. "	370	0	2	11
			52 नं. "	278	0	0	10
			4 नं. "	369	0	1	6
			5 नं. मियादी	366	0	0	10
			27 नं. "	261	0	0	5
			27 नं. "	281	0	0	5
			52 नं. "	282	0	0	4
			52 नं. "	368	0	4	8
			60 नं. "	287	0	4	1
			120 नं. "	286	0	1	13
			65 नं. "	285	0	1	0
			24 नं. "	284	0	2	0
			104 नं. "	283	0	0	6
			64 नं. "	256	0	1	13

1	2	3	4	5	6	7	8
25.	मिरिपथार गांव	लाहोवाल	23 न. , 63 न. , 83 न. , 52 न. , 104 न. , 27 न. , सरकार	255 254 163 164 162 161 76	0 0 0 0 0 0 0	2 2 2 0 1 1 0	8 4 11 5 0 6 11
				कुल क्षेत्रफल	20	4	5
26.	सरुपथार गांव	लाहोवाल	सरकार	72	7	1	5
				कुल क्षेत्रफल	7	1	5
27.	मनिपनिया गांव	लाहोवाल	एफ. एच. गान्ट सरकार	19 87	7 1	1 4	9 16
				कुल क्षेत्रफल	9	1	5
28.	माईजान हिन्दु गांव कदमनि बागिचा प्रथम और द्वितीय भाग ।	लाहोवाल	एफ. एच. गान्ट एफ. एच. गान्ट न. 103 सरकार " " " " 14 नं. मियादी एफ. एच. गान्ट " सरकार	71 74 85 86 88 102 101 111 91 117 136	2 7 0 7 0 4 0 0 0 3 3 7	4 2 0 4 0 3 0 4 4 3 4 4	15 10 15 0 15 18 7 7 13 15 10
				कुल क्षेत्रफल	36	0	5
29.	कान्दुलिबारि चाय बागिचा गान्ट नं. 4 एफ एच . 3 य खण्ड	लाहोवाल	1 नं. चाय मियादी एफ एच गान्ट नं. 4/2 एफ एच नं. 4 एफ एच गान्ट नं. 4/2	222 214 202 207	1 3 1 0	4 1 4 3	17 12 5 13
				कुल क्षेत्र फल	7	4	7
30.	चेंगधरा गांव	रंहुमरिया	सरकार सरकार	196 154	3 0	2 4	15 14
				कुल क्षेत्रफल	4	2	9
31.	माईजान गांव	रंहुमरिया	सरकार सरकार	205 294	0 5	0 2	18 11
				कुल क्षेत्रफल	5	3	9

1	2	3	4	5	6	7	8
32.	मैकाहि गोरि चाय बागिचा गान्ट नं. 14/11 एन एल आर	रहमरिया	14/11 एन एल आर	31	13	1	6
			कुल क्षेत्रफल		13	1	6
33.	नाहरतलि चाय बागिचा गान्ट नं. 30/27 एन एल आर गान्ट नं. 35 एफ एच 2 य खण्ड ।	बगदुंग	सरकार 30/27 नं. एन एल आर " 30/27 नं. एन एल आर	22 19 20 21 78 85	0 0 0 0 5 0	0 4 1 0 3 2	18 4 2 2 3 15
			कुल क्षेत्रफल		7	2	4
34.	नादुवा गान्ट गांव	सरकार	बगदुंग	107 233 232	0 1 3	0 0 2	4 18 13
			कुल क्षेत्रफल		4	3	15
35.	मिरिपथार गान्ट एफ.एच. नं. 16	लाहोवाल	16 नं. एफ एच गान्ट नं. 2 16 नं. एफ एच गान्ट नं. 2	3 11 15	14 1 5	0 2 0	0 8 7
			कुल क्षेत्रफल		20	2	15
36.	तिता विमर गांव	लाहोवाल	1 नं. चाय मियादी 1 नं. चाय मियादी " 34 " 38 " 39 सरकार 70 1 नं. चाय मियादी 71	8 18 34 38 39 70 71	1 3 1 4 4 1 1	0 3 3 2 2 1 1	16 13 5 9 10 8 8
			कुल क्षेत्रफल		18	0	9
37.	कान्दुलिबारि चाय लाहोवाल बागीचा गान्ट नं. 4 एफ. एच. प्रथम खण्ड		एच एच नं. 4 एफ एच नं. 4 " 66 " 65 " 42 " 110 " 111	4 11 66 65 42 110 111	3 2 1 0 5 0 0	4 1 3 1 1 0 0	7 18 0 6 6 4 3
			कुल क्षेत्रफल		13	2	4
38.	फिलनुगौरो चाय बागिचा लाहोवाल आपार आसाम चाय		गान्ट नं. 4/152 अ आर आर	29	0	0	4

		वि.	क.	ल.	
कोम्पनी लि. प्रथम खंड	गान्ट न. 4/152	28	0	1	19
	अ' आर आर				
	"	30	0	9	3
	"	31	3	4	12
	"	32	0	2	17
	"	163	0	0	4
	"	36	0	2	3
	"	35	0	1	1
	"	43	0	0	14
	"	52	5	1	16
	"	58	4	4	9
	"	56	0	0	10
	"	57	0	1	18
		कुल क्षेत्रफल	16	2	15
39. फिलतुगौरी चाय बागिचा साहोवाल	गान्ट न. 4/152	58	3	2	5
आपार आसाम चाय	अ' आर आर				
कोम्पनी लि. 4/152	"	89	0	0	7
अन. आर [आर] गान्ट	"	90	1	1	11
द्वितीय भाग	"	170	0	1	9
	"	94	0	0	9
	"	55	0	0	9
	"	96	0	1	12
	"	125	0	1	1
	"	145	2	4	7
	"	144	0	3	17
	1 न. चाय मियादी	143	0	0	9
	4 न. "	142	0	0	9
	2 न. "	141	0	3	13
	1 न. "	140	0	1	8
	गान्ट न. 4/152	173	0	3	4
	अ आर आर				
	"	92	0	0	2
	"	91	0	0	13
	"	57	0	1	7
		कुल क्षेत्रफल	11	3	12
40. हिलईधारी चान्दई गांव डिब्रुगढ़	सरकार	107	3	0	14
	"	109	0	1	0
		कुल क्षेत्रफल	3	1	14
41. माईआन गान्ट डिब्रुगढ़	गान्ट नं. 2/178	40	6	2	4
	अ आर [आर]				
		कुल क्षेत्रफल	6	2	4
42. हगौनिवारि डिब्रुगढ़	सरकार	29	1	1	4
	1 न. चाय मियादी	31	3	0	10
	"	33	0	1	17

1	2	3	4	5	6	7	8
43, हगोबोबारि	डिब्रूगड	1 नं. चाय मियादी	34	0	0	2	
		"	47	0	0	7	
		"	38	0	1	8	
		"	46	2	4	13	
		"	50	0	0	2	
		"	51	0	0	2	
		"	35	0	0	12	
				कुल क्षेत्रफल	8	0	17
43. बघिन्न डिब्रुगड़ ताउन	डिब्रुगड़	सरकार	670	0	3	12	
खलिहामार गांव वाद ।		1 नं. चाय मियादी	687	0	0	2	
द्वितीय और तृतीय भाग ।		"	688	0	0	4	
		"	689	0	0	2	
		"	623	0	0	2	
		"	514	0	1	0	
		सरकार	545	0	0	2	
		1 नं. चाय मियादी	555	0	1	2	
		सरकार	583	0	0	4	
		1 नं. चाय मियादी	592	0	0	5	
				कुल क्षेत्रफल	1	1	15

[सं. 12016/3(ख)/90-ओ एन जांडो IV]

S.O. 2958.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 2034 dated 16-7-91 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that right of user in the said lands shall instead of vesting in the Central Government vests on this date of publication of this declaration in the Assam Gas Company Limited free from encumbrances.

Land Schedule

Laying of 12" (300 mm)/8" (200 mm)/6" (150mm) OD underground natural gas pipe line from Duliajan to the tea gardens of Dibrugarh tea gas grid.

Sl. No.	Name of village	Mauza	Patta No.	Dag No.	Area			Remarks
					B	K	L	
1.	Dikom Sessacha Bagicha	Modarkhat	Wasteland	65	2	4	6	
	grant no 15/154		Wasteland	64	2	2	18	
	O.R. (R) Ist & 3rd Part.		—DO—	72	6	2	6	
			—Do—	100	23	1	4	
Total Area					42	0	2	

1	2	3	4	5	6	7	e
2.	Lahowal chu Bagicha.	Lahowal	Wasteland	37	0	0	15
	Grant No. 27/148		27/148 O.R.(R)	72	0	0	2
	O.R. (R) Ist, 2nd & 3rd part.		27/148 O.R. (R)	71	0	0	18
			—Do—	75	2	3	2
			—Do—	81	3	4	7
			—Do—	63	7	1	10
			—Do—	114	0	0	15
			Total Area		14	1	9
3.	Kharikatia Gaon	Modarkhat	30 Nos. Grant	14	0	4	15
			140 No				
			Wasteland.	15	0	0	10
			30 Nos Grant	16	1		10
			139 No				
			P.P. No 56	116	2	2	6
			P.P. No 14	118	0	3	5
			P.P. No 58	181	0	2	3
			P.P. No 58	225	1	1	16
			P.P. No 53	240	1	0	8
			Annual	277	0	1	18
			Annual	293	0	1	19
			P.P. No. 58	294	0	1	12
			„ 11	351	0	2	16
			„ 30	323	0	1	9
			Wasteland	353	0	0	8
			Wasteland	334	0	3	10
			„	312	6	3	7
			„	322	0	0	6
			P.P. No 30	321	0	2	10
			„ 11	397	0	0	14
			„ 58	295	0	0	11
			T. P.P. No 2	241	0	0	6
			T.P.P. No 4	224	0	2	4
			Total Area		19	1	3
4.	Gonhain Gaon	Modarkhat	Wasteland	397	7	2	18
5.	Habisok Gaon	Modarkhat	Wasteland	200	4	2	5
			Wasteland	188	2	3	14
			—Do—	229	1	0	2
			—Do—	183	3	4	0
			P.P. No 17	440	1	0	3
			Wasteland	442	0	0	4
			T.P.P. 1	443	0	1	8
			P.P. No 17	445	0	4	1
			Wasteland	191	0	0	7
			Wasteland	198	0	0	9
			Total Area		14	1	13

1	2	3	4	5	6	7
6. Hatkholla Gaon	Modarkhat	Wasteland	479	5	0	6
		Wasteland	480	4	2	12
		Total—	Area	9	2	18
7. Melongial Gaon	Modarkhat	Wasteland	290	7	1	9
		Wasteland	451	7	4	4
		Wasteland	578	0	0	13
		Total—	Area	15	1	6
8. Rengpuria Gaon 2nd Part	Modarkhat	T.P.P. No. 1	22	1	4	3
		P.P. No. 35	33	0	1	10
		P.P. No. 35	34	0	0	10
		P.P. No. 15	36	0	0	15
		P.P. No. 37	73	0	0	13
		P.P. No. 36	74	0	0	17
		P.P. No. 35	75	0	0	17
		Wasteland	79	0	0	19
		P.P. No. 30	80	0	0	12
		P.P. No. 34	81	0	0	14
		Wasteland	83	0	2	1
		P.P. No. 18	85	0	0	7
		P.P. No. 16	93	0	0	5
		P.P. No. 6	94	0	0	17
		Wasteland	100	2	0	2
		P.P. No. 6	101	0	0	7
		„ „ 66	103	0	1	0
		„ „ 66	105	0	0	14
		„ „ 32	106	0	1	1
		„ „ 32	114	0	2	10
		Wasteland	138	0	3	0
		Wasteland	174	2	4	15
		PP. No. 23	225	0	0	12
		Wasteland	261	2	3	7
		Wasteland	288	1	1	1
		Total Area		14	3	9
9. Chenglijan Cha Bagicha	Modarkhat	F.S. No. 26	23	1	4	5
		Wasteland	26	0	3	7
		Wasteland	28	1	0	8
Grant No. 26. F.S.		Total Area—		3	3	0
10. Tamul bari cha Bagicha	Modarkhat	T.P.P. No. 1	45	0	0	10
		T.P.P. No. 1	46	3	1	6
		Wasteland	47	0	1	11
		T.P.P. No. 1	48	0	4	8
		T.P.P. No. 1	49	3	1	4
		T.P.P. No. 1	50	1	0	10
		T.P.P. No. 1	53	0	0	11
		—Do—	54	0	4	4
		—Do—	56	0	1	17

1	2	3	4	5	6	7
10. Tamul baricha Bagicha--contd.	Modarkhat	T.P.P. No. 1	58	0	1	9
		—Do—	59	0	2	11
		—Do—	62	1	3	5
		Total Area—		12	2	1
11. Romai Bangali Gaon.	Modarkhat	Wasteland	1	0	2	15
		P.P. No 15	2	0	0	11
		Wasteland	3	0	2	10
		Wasteland	4	0	2	7
		P.P. No 109	41	0	2	11
		„ „ 109	42	0	0	18
		Wasteland	83	5	3	14
		P.P. No 30	59	0	0	9
		Wasteland	58	0	0	10
		P.P. No 119	54	0	0	8
		P.P. No 67	55	0	0	2
		Wasteland	56	0	0	6
		„	30	0	1	8
		„	12	0	1	19
		P.P. No 4	6	0	1	17
		F.S.—				
		Total Area—		9	2	5
12. Romai Gaon	Modarkhat	Wasteland	2	0	1	16
		Wasteland	18	1	3	3
		—Do—	37	2	1	14
		—Do—	450	2	2	9
		—Do—	503	0	1	13
		—Do—	495	1	1	19
		Total Area		8	2	14
13. 2 No Chiring Holla Gaon	Modarkhat	Wasteland	307	1	3	17
14. Taporchali Bam Gaon 1st & 2nd Part.	Modarkhat	Wasteland	3	3	4	18
		Wasteland	115	8	3	6
		Total Area—		12	3	4
15. Basmotia Bagicha	Modarkhat	T.P.P. No 1	2	1	0	17
		T.P.P. No 1	3	0	0	5
		T.P.P. No 1	6	0	0	1
		Wasteland	7	3	3	6
		T.P.P. No 1	10	3	0	4
		T.P.P. No 1	13	0	0	8
		T.P.P. No 1	14	0	0	5
		Total Area—		10	0	6
16. Nahar Haku Gaon	Modarkhat	Wasteland	214	2	2	0
		Wasteland	215	2	2	15
		P P No 122	213	0	2	15
		Total Area—		5	2	10

1	2	3	4	5	6	7
17, Chenglijan Gaon	Modarkhat	P.P. No. 8	8	0	0	18
		T.P.P. No. 1	10	0	4	12
		T.P.P. No. 1	11	0	0	15
		P.P. No. 8	12	1	1	12
		" " 8	24	0	0	17
		" " 8	39	1	4	11
		" " 8	41	0	3	10
		Total Area—		5	1	15
18. Dibrowal Changmai Gaon	Lahowal	P.P. No. 72	369	0	1	19
		P.P. No. 76	366	0	2	11
		Wasteland	365	0	0	6
		P.P. No. 2	364	0	1	6
		Annual	320	0	3	2
		6 No				
		P.P. No. 88	321	0	1	13
		P.P. No. 104	323	0	1	17
		P.P. No. 35	360	0	1	15
		P.P. No. 18	359	0	1	19
		P.P. No. 33	327	0	2	2
		Wasteland	229	0	0	7
		P.P. No. 9	329	0	2	15
		P.P. No. 28	334	0	3	8
18. Dibrowal Changmai Gaon	Modarkhat	P.P. No. 56	333	0	1	6
		P.P. No. 9	335	0	2	8
		P.P. No. 81	336	0	1	14
		P.P. No. 106	345	0	0	14
		P.P. No. 47	339	0	1	11
		Wasteland	334	0	0	4
		P.P. No. 47	343	0	0	2
		" " 80	342	0	1	13
		" " 47	295	0	3	2
		" " 80	341	0	3	1
		" " 27	293	0	0	9
		" " 52	294	0	4	6
		" " 54	290	0	1	6
		" " 86	284	0	0	2
		" " 58	287	0	1	4
		" " 52	286	0	1	0
	Lahowal	" " 76	285	0	1	6
		" " 58	252	0	1	2
		" " 39	253	0	1	6
		" " 93	193	0	1	4
		" " 5	281	0	1	2
		" " 9	280	0	1	11
		" " 4	192	0	0	11

1	2	3	4	5	6	7
18. Dibrowal Changmai Gaon—Contd.	Lahowal	P.P. No. 66	254	0	1	4
		„ „ 10	191	0	1	17
		„ „ 77	256	0	1	17
		„ „ 39	257	0	1	0
		„ „ 66	258	0	1	0
		„ „ 9	259	0	1	0
		„ „ 61	278	0	1	1
		„ „ 40	260	0	0	4
		„ „ 7	277	0	0	13
		„ „ 93	276	0	0	15
		„ „ 115	271	0	1	13
		„ „ 7	273	0	1	0
		„ „ 46	272	0	0	18
		„ „ 71	265	0	1	11
		Total Area—		14	2	17
		P.P. No 29	653	0	0	13
19. Bakul Maj Gaon	Lahowal	P.P. No. 74	652	0	3	17
		Wasteland	634	0	0	4
		P.P. No. 116	628	1	1	18
		P.P. No. 175	627	0	0	5
		P.P. No. 20	626	0	0	2
		P.P. No. 77	624	0	2	3
		P.P. No. 78	625	0	0	11
		P.P. No. 13	561	0	2	11
		P.P. No. 119	623	0	1	13
		P.P. No. 119	562	0	3	17
		P.P. No. 170	563	0	2	8
		P.P. No. 119	564	0	1	6
		P.P. No. 195	565	0	0	18
		P.P. No. 119	566	0	1	10
		P.P. No 195	567	0	0	18
		P.P. No. 119	568	0	1	0
		P.P. No. 12	570	0	2	8
		N.P.P. No. 3	553	0	2	4
		N.P.P. No. 1	552	0	1	17
		N.P.P. No. 2	572	0	1	9
		P.P. No. 173	573	0	1	11
		P.P. No. 44	575	0	1	6
		P.P. No. 163	576		2	4
		P.P. No. 2	548		0	18
		P.P. No. 4	578	0	1	9
		P.P. No. 147	579	0	2	8
		P.P. No 150	546	0	4	3
		P.P. No. 100	544	0	2	15
		P.P. No. 4	543	0	1	2
		P.P. No. 54	581	0	1	8
		P.P. No. 53	541	0	2	4
		P.P. No. 85	589	0	1	1
		P.P. No. 50	588	9	2	11

1	2	3	4	5	6	7	
19.	Bakul Maj Gaun—(Contd.)	Lohowal	P.P. No 194 Wasteland P.P. No 58	592 240 650	0 0 0	1 0 0	4 11 7
			Total Area—		13	1	10
20.	Lahowal cha Bagicha Jokai Assam Tea Co. Ltd. L.C. 19/155 O, R(R) Grant Is. Part	Lahowal	19/155 O.R(R) Grant Wasteland 19/155 O, R(R) Orant -do- -do- -do- 7 No L.C. Wasteland 7 No L.C. Wasteland 7 No L.C. -do- -do- -do-	72 73 38 25 41 79 50 36 77 71 48 44 45 69	2 0 1 5 0 0 0 2 0 5 0 0 1	2 1 4 2 2 2 0 0 1 4 2 4 3	9 11 2 12 14 10 15 2 6 4 3 6 1 3
	Lahowal cha Bagicha 7 No L. C. 19/155 O, R (R) Grant.		Total	Area—	17	3	18
21.	Lahowal Pattra Gaon	Lahowal	Wasteland Wasteland -do- -do- -do- -do- -do- -do-	529 531 455 558 590 565 530 535	0 0 0 4 3 1 1 0	1 3 1 4 3 2 1 0	15 13 17 16 1 15 4 11
			Total	Area—	12	4	12
22.	Niz Lahowal Gaon	Lahowal	Wasteland P.P. No. 224	563 606	10 2	2 1	15 18
			Total	Area—	12	4	13
23.	Niz Moidomia Gaon	Lahowal	Wasteland Wasteland -do- P.P. No. 5 T.P.P. No. 1 Wasteland Wasteland -do-	459 437 436 438 343 478 174 319	0 0 0 0 0 1 4 0	0 0 0 1 2 2 4 3	5 7 18 4 12 10 11 9

1	2	3	4	5	6	7
23. Niz Moidomia Gaon—(Contd.)	Lahowal	Wasteland	275	0	2	6
		-do-	276	0	0	4
		-do-	277	0	0	13
		-do-	260	0	2	17
		-do-	184	0	0	11
		-do-	182	0	2	4
		-do-	183	0	0	15
		T.P.P. No. 2	3	4	1	15
		T.P.P. No. 1	4	0	1	2
		T.P.P. No. 1	5	1	4	8
		Wasteland	432	0	0	9
Total Area—				16	3	0
24. Attha Bari Gaon	Lahowal	P.P. No. 11	113	0	0	9
		P.P. No. 28	115	0	0	11
		P.P. No. 28	126	0	1	8
		Wasteland	122	0	0	5
		Wasteland	131	0	0	17
		P.P. No. 16	139	0	0	8
		Wasteland	147	1	0	0
		Wasteland	151	0	2	2
		-do-	203	0	4	10
		-do-	202	0	0	6
Total Area—				3	0	16
25. Miripothar Gaon	Lahowal	Wasteland	76	6	3	18
		Wasteland	135	2	1	2
		P.P. No. 29	132	0	0	15
		Wasteland	138	0	0	18
		-do-	140	0	0	14
		P.P. No. 25	141	0	2	0
		P.P. No. 110	152	0	1	13
		P.P. No. 118	153	0	2	7
		P.P. No. 89	264	0	1	13
		P.P. No. 73	267	0	1	12
		P.P. No. 58	270	0	2	10
		P.P. No. 65	273	0	1	16
		Wasteland	180	0	0	10
		P.P. No. 84	375	0	0	5
		P.P. No. 6	376	0	1	9
		P.P. No. 6	377	0	4	12
		P.P. No. 36	381	0	3	12
		„ „ 5	371	0	2	2
		„ „ 5	370	0	2	11
		„ „ 52	278	0	0	10
		„ „ 4	369	0	1	6
		„ „ 5	366	0	0	10
		„ „ 27	261	0	0	5
		„ „ 27	281	0	0	5
		„ „ 52	282	0	0	4

1	2	3	4	5	6	7
25. Miripothar Goan—(Contd.)	Lahowal	P.P. No 52	368	0	4	8
		„ „ 60	287	0	4	1
		„ „ 120	286	0	1	13
		„ „ 65	285	0	1	0
		„ „ 24	284	0	2	0
		„ „ 104	283	0	0	6
		„ „ 64	256	0	1	13
		„ „ 23	255	0	2	8
		„ „ 63	254	0	2	4
		„ „ 83	163	0	2	11
		„ „ 52	164	0	0	5
		„ „ 104	162	0	1	0
		„ „ 27	161	0	1	6
		Westland	76	0	0	11
Total Area—				20	4	5
26. Saru Pothar Gaon	Lahowal	Wasteland	72	7	1	5
Total Area—				7	1	5
27. Soni Potia Gaon	„	F.S. Grant	19	7	1	9
		Wasteland	87	1	4	16
Total Area—				9	1	5
28. Maijan Hindu Gaon, Kadamoni Bagicha Ist & 2nd Part		F.S. Grant	71	2	4	15
		F.S. Grant	74	7	2	10
		No 103				
		Wasteland	85	0	0	15
		-do-	86	7	4	0
		-do-	88	0	0	15
		-do-	102	4	3	18
		-do-	101	0	0	7
		P.P. No 14	111	0	0	7
		F.S. Grant	91	0	3	13
		F.S. Grant	117	3	4	15
		Wasteland	136	7	4	10
Total Area—				36	0	5
29. Kanduli Bari ha Bagicha Grant No 4 F.S. 3rd Part		T.P.P. No. 1	222	1	4	17
		F.S. Grant No. 4/2	214	3	1	12
		F.S. No 4	202	1	4	5
		F.S. Grant No 4/2	207	0	3	13
Total Area—				7	4	7

1	2	3	4	5	6	7
30. Changdhora Gaon	Rohmuria	Wasteland	196	3	2	15
		-do-	154	0	4	14
		Total Area—		4	2	9
31. Maijan Gaon	„	Wasteland	205	0	0	18
		Wasteland	294	5	2	11
		Total Area—		5	3	9
32. Mekahi Gori cha Bagicha Grant No 14/11 N.L.R.	Rohmuria	14/11 N.L.R.	31	13	1	6
		Total Area—		13	1	6
33. Nahortoli cha Bagicha Grant No 30/27 N.L.R. Grant No 35. F.S. 2nd Part	Bogdung	Wasteland	22	0	0	18
		30 (27) No N.L.R.	19	0	4	4
		-do-	20	0	1	
		Wasteland	21	0	0	2
		30(27) No N.L.R.	78	5	3	3
		-do-	85	0	2	15
		Total Area—		7	2	4
34. Nadua Grant Gaon	„	Wasteland	107	0	0	4
		Wasteland	233	1	0	18
		Wasteland	232	3	2	13
		Total Area—		4	3	15
35. Miripothar Grant 16 No F.S.	Lahowal	16 No F.S. Grant No 2	3	14	0	0
		16 No F.S. Grant No 2	11	1	2	8
		-do-	15	5	0	7
		Total Area—		20	2	15
36. Fitta Dimaru Gaon	„	T.P.P. No. 1	8	1	0	16
		T.P.P. No. 1	18	3	3	13
		-do-	34	1	3	5
		-do-	38	4	2	9
		-do-	39	4	2	10
		Wasteland	70	1	1	8
		T.P.P. No. 1	71	1	1	8
		Total Area—		18	0	9

1	2	3	4	5	6	7
37.	Kanduli Bari cha Bagicha Ist Part Grant No 4 F.S.	Lahowal	F.S. No. 4 F.S. No. 4 -do- -do- -do- -do- Annual Tea	4 11 66 65 42 110 111	3 2 1 0 5 0 0	4 1 3 1 1 0 0
			Total Area		13	2
38.	Philonuguri Cha Bagicha Upper Assam Tea Co Ltd. Ist Part	„	Grant No 4/152 O.R.R. Grant No 4/152 O.R.R. -do- -do- -do- -do- -do- -do- -do- -do- -do- -do- -do- -do- -do-	29 28 30 31 32 163 36 35 43 52 58 56 57	0 0 0 3 0 0 0 0 0 5 4 0 0	4 1 0 4 2 0 2 1 0 1 4 9 0 1
			Total Area—		16	2
39.	Philonuguri Cha Bagicha (Upper Assam Tea Co Ltd.) 4/152 No OR (R) Grant 2nd Part	„	Grant No 4/152 O.R.R. -do- -do- -do- -do- -do- -do- -do- -do- -do- T.P.P. No. 1 P.P. No. 4 P.P. No. 2 T.P.P. No. 1 Grant No 4/152 O.R.R. Grant No 4/152 O.R.R. -do- -do-	58 89 90 170 94 55 96 125 145 144 143 142 141 140 173 92 91 67	3 0 1 0 0 0 0 0 2 0 0 0 0 0 0 0 0 0	2 0 1 1 0 0 1 1 4 3 0 0 3 1 3 0 0 1
			Total Area—		11	3

1	2	3	4	5	6	7
40. Heeloidhari Sandoi Gaon.	Dibrugarh	Wasteland	107	3	0	14
	„	Wasteland	109	0	1	0
		Total Area—		3	1	14
41. Maijan Grant	„	Grant No. 2/178 ORR	40	6	2	4
		Total Area		6	2	4
42. Sagoni bari	„	Wasteland	29	1	1	4
		T.P.P. No. 1	31	3	0	10
		T.P.P. No. 1	33	0	1	17
		T.P.P. No. 1	34	0	0	2
		-do-	47	0	0	7
		-do-	38	0	1	8
		-do-	46	2	4	13
		-do-	50	0	0	2
		-do-	51	0	0	2
		-do-	35	0	0	12
		Total Area		8	0	17
43. Extended Dibrugarh town. Khaliha mari Gaon vis ward, 2nd & 3rd Part.	Dibrugarh	Wasteland	670	0	3	12
		T.P.P. No. 1	687	0	0	2
		T.P.P. No. 1	688	0	0	4
		T.P.P. No. 1	689	0	0	2
		T.P.P. No. 1	623	0	0	2
		T.P.P. No. 1	514	0	1	0
		Wasteland	545	0	0	2
		T.P.P. No. 1	555	0	1	2
		Wasteland	583	0	0	4
		T.P.P. No. 1	592	0	0	5
		Total Area		1	1	15

[No. 12016/3 (B)/90-ONGD-IV]

का. मा. 2959—यतः पेट्रोलियम और खनिज पार्श्व लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना का. मा. सं. 2037 तारीख 18-7-91 द्वारा केन्द्रीय सरकार ने उस अधिमूर्चित से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार का पार्श्व लाईनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था;

और यतः समक्ष प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है;

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है;

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पार्श्व लाईन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है;

और आगे इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय असम गैस कं. लि. में, सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

वर्तमान श्रद्धित धोवर आलि ति बिन्दु से बालिमारा चाय बागानी के लिये गैस पार्श्व लाईन बिछाना

राज्य —आसाम		जिला—डिब्रुगढ		तालुक—जयपुर			
		एरिया					
क्रम सं.	गांव	पार्ट नं.	दाग नं.	बि.	क.	ल.	मन्तव्य
1. नगा गांव		मियादी 14 नं.	165	0	0	10	
		" 5	164	0	0	14	
		सरकार	157	0	4	10	
		"	119	3	3	15	
		"	120	5	1	18	
		"	118	3	2	16	
		"	163	0	0	2	
कुल क्षेत्रफल			13	4	0		
1. दिरियाल गांव		सरकार	1	0	4	3	
		"	2	0	1	11	
		"	13	4	4	14	
		"	14	5	3	15	
कुल क्षेत्रफल			11	4	3		
1. गरिया बाम गांव		सरकार	1	2	4	14	
		"	2	2	4	10	
कुल क्षेत्रफल			5	4	4		
1. बालिमरा		सरकार	67	1	1	11	
		"	66	3	4	16	
कुल क्षेत्रफल			5	1	7		

[सं. 12016/5/90—ओ.एन.जी.सी.-IV]

S.O. 2959.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 2037 dated 18-7-91 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline ;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that right of user in the said lands shall instead of vesting in the Central Government vests on this date of publication of this declaration in the Assam Gas Company Limited free from encumbrances.

LAND SCHEDULE

Laying of gas pipeline from Existing Dhodar All Tea Point to Balimara Tea Estate

State : Assam

Distt. : Dibrugarh

Mauza : Joypure

Sl. Name of village No.	Patta No.	Dag No.	Area			Remarks
			B	K	L	
1. Noga Gaon	PP No. 14	165	0	0	10	
	" 5	164	0	0	14	
	Waste Land	157	0	4	10	
	"	119	3	3	15	
	"	120	5	1	18	
	"	118	3	2	16	
	"	163	0	0	2	
Total Area—			13	4	0	
1. Dercial Gaon	Waste Land	1	0	4	3	
	"	2	0	1	11	
	"	13	4	4	14	
	"	14	5	3	15	
Total Area			11	4	3	
1. Goriabam Gaon	Waste Land	1	2	4	14	
	"	2	2	4	10	
Total Area—			5	4	4	
1. Balimara Pathar	Waste Land	67	1	1	11	
	"	66	3	4	16	
Total Area—			5	1	7	

[No. 12016/5/90-ONG-D-IV]

का. आ. 2960—यतः पेट्रोलियम और खनिज पाईप लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. सं. 2032 तारीख 16-7-91 द्वारा केन्द्रीय सरकार ने उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाईप लाईनों को बिछाने के प्रयोजन के लिये अर्जित करने का अपना आग्रह घोषित कर दिया था;

अतः यतः समस्त प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है ;

अतः आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है;

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाईप लाईन बिछाने के प्रयोजन के लिए एतद्द्वारा अर्जित किया जाता है;

और आगे इस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय अमम गैस कं. लि. में सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

वर्तमान प्रिन्ट लाकृवा नामरूप 400 एम एम अ. दो. पाईप लाईन से सोनारी टी गैस ग्रीड के चाय बागानों के लिये गैस पाईप लाईन बिछाना

राज्य—आसाम,		जिला—शिवसागर		तालूक —बरुनाशाली			
क्रम सं.	गांव	पाटा नं.	वाग नं.	परिया			मनतब्ब
				बि.	क	लि.	
1. दाबलु हाबी		50 नं. मियादी	343	0	1	13	
		एकसमा	342	0	0	17	
		16 नं. मियादी	335	0	3	0	
कुल क्षेत्रफल				1	0	10	

राज्य—		आसाम		जिला—सिबसागर		तालुक—सापेगाटी		
क्र. सं.	गाँव	पाटा नं.	वाग नं.	परिया			मनतब्ब	
				बि.	क.	ल.		
1. कोलाकता गाँव		119 नं. मियादी	278	0	3	8		
		100 नं. मियादी	280	0	0	19		
		138 नं. मियादी	281	0	0	5		
		कुल क्षेत्रफल		0	4	12		

राज्य—आसाम		जिला—शिवसागर		तालुक—बरुनाशाली			
क्रम सं.	गांव	पाटा नं.	दाग नं.	परिया			मनतब्ब
				बि.	क.	ल.	
1. नगाहाट		18 नं. मियादी	22	0	0	18	
		एकसना	36	0	1	18	
		62 नं. मियादी	33	0	0	0	
		29 नं. मियादी	32	0	1	0	
		80 नं. मियादी	128	0	1	7	
		एकसना	130	0	1	19	
		65 नं. मियादी	131	0	1	0	
		एकसना	265	0	0	13	
		10 नं. मियादी	182	0	1	6	
		51 नं. मियादी	184	0	2	3	
		मियादी	185	0	1	5	
		32 नं. मियादी	187	0	4	10	
		13 नं. मियादी	194	0	3	8	
		71 नं. मियादी	196	1	3	3	

क्र. सं.	गांव	पाटा नं.	वाग नं.	परिया			मनसब्य
				बि.	क.	ल.	
		27 नं. मियादी	232	0	1	19	
		एकसना	233	0	0	10	
		25 नं. मियादी	228	0	1	7	
		10 नं. मियादी	226	0	3	3	
कुल क्षेत्रफल				7	1	15	

राज्य --प्रासाभ

जिला--शिवसागर

तालुक--अभयपुर

क्र. सं.	गांव	पाटा नं.	दाग नं.	परिया			मनसब्य
				बि.	क.	ल.	
1. राईविगिया नफ्तारी		7 नं. मियादी	59	0	0	10	
		153 नं. मियादी	60	0	0	15	
कुल क्षेत्रफल				0	1	5	

राज्य:--प्रासाभ

जिला--शिवसागर

तालुक--सापेखाटी

क्र.सं.	गांव	पाटा नं.	दाग नं.	परिया			मनसब्य
				बि.	क.	ल.	
1. कथियाखुन्दा 5 नं. भाग		46 नं. मियादी	940	0	3	17	
		"	941	1	0	2	
		79 नं. मियादी	983	0	0	19	
		77 नं. मियादी	1033	0	1	0	
		46 नं. मियादी	1034	0	1	18	
		"	1126	0	0	14	
		23 नं. मियादी	1046	0	1	16	
		एकसना	1047	0	2	2	
		241 नं. मियादी	1037	1	0	7	
		एकसना	1043	0	3	2	
		"	1079	0	4	6	
		1 नं. मियादी	1078	0	1	0	
		एकसना	1077	0	1	7	
		1 नं. 30 सा.	1066	0	3	13	
		एकसना	952	0	0	3	
कुल क्षेत्रफल				7	1	6	

राज्य—आसाम		जिला—शिवसागर		तालुक—अभयपुर			
क्र.सं.	गांव	पाटा नं.	दाग नं.	परिया			मनतव्य
				बि.	क.	ल.	
1.	टियक	138 नं. मियादी	709	0	3	10	
		34 नं. मियादी	744	1	0	1	
		1 नं. मियादी	745	0	3	10	
		311 नं. मियादी	746	0	2	10	
		312 नं. मियादी	747	0	2	16	
		7 नं. मियादी	752	0	2	5	
		214 नं. मियादी	755	0	1	6	
		2 नं. मियादी	756	0	2	11	
		7 नं. मियादी	757	1	0	5	
		190 नं. मियादी	760	0	1	6	
		„	761	0	1	10	
		55 नं. मियादी	762	1	1	4	
		54 नं. मियादी	764	0	0	15	
		„	766	0	2	15	
		111 नं. मियादी	767	0	2	0	
कुल क्षेत्रफल				8	3	4	

राज्य—आसाम		जिला—शिवसागर		तालुक—ब्रह्मशाली			
क्र.सं.	गांव	पाटा नं.	दाग नं.	परिया			मनतव्य
				बि.	क.	ल.	
1.	नगाहार—कसारी	102 नं. मियादी	7	0	1	5	
		एकसना	11	0	2	2	
		1 नं. 30 सा. मियादी	168	0	2	1	
		मियादी	232	0	4	14	
		67 नं. मियादी	245	0	3	1	
		68 नं. मियादी	248	0	1	13	
		71 नं. मियादी	277	0	1	11	
		75 नं. मियादी	275	0	3	5	
		30 नं. मियादी	272	0	2	3	
		53 नं. मियादी	269	0	0	17	
		59 नं. मियादी	268	0	2	1	
कुल क्षेत्रफल				4	4	13	

राज्य:—आसाम		जिला—शिवसागर		तालूक—अभयपुर		
क्र.सं.	गांव	पाटा नं.	दाग नं.	परिया		
				बि.	क.	ल.
1. दक्षिण-सोनारी		73 नं. मियादी	360	0	1	15
		28 नं. मियादी	252	0	0	19
		"	251	0	2	4
		"	250	1	0	1
		7 नं. मियादी	247	1	0	8
		59 नं. मियादी	246	0	2	7
		"	236	1	0	5
		"	237	0	4	5
		42 नं. मियादी	178	0	1	4
		41 नं. मियादी	177	0	3	15
		"	356	0	2	8
		"	176	0	2	6
कुल क्षेत्रफल				7	1	17

[सं. 12016/6/90—जी. एन. जी. डी.-IV]

एम. मार्टिन, डेस्क अधिकारी

S.O. 2960.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 2032 dated 16-7-91 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report, decided to acquire the right of

user in the lands specified in the schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that right of user in the said lands shall instead of vesting in the Central Government vests on this date of publication of this declaration in the Assam Gas Company Limited free from encumbrances.

LAND SCHEDULE

Laying of Gas Pipeline from existing Lakwa-Namrup 400 mm O.D. Natural Gas Pipeline to Tea Gardens of Sonari Tea Gas Grid.

State—Assam

District—Sibsagar

Mouza—Baruachali

Sl. No.	Name of Village	Patta No.	Dag No.	Area to be taken remarks		
				B.	K.	L.
1. Dabluhabi		50 No. Periodical	343	0	1	13
		Annual	342	0	0	17
		16 No. Periodical	335	0	3	0
Total Area—				1	0	10

State—Assam		District—Sibsagar		Mouza—Sapekhali			
Sl. No.	Name of Village	Patta No.	Dag No.	Area to be taken			Remarks
				B.	K.	L.	
1.	Kola-Kota Gaon	119 No. Periodical	278	0	3	8	
		100 No. Periodical	280	0	0	19	
		138 No. Periodical	281	0	0	5	
Total Area =				0	4	12	

State—Assam		District—Sibsagar		Mouza—Barauachali			
Sl. No.	Name of Village	Patta No.	Dag No.	Area to be taken			Remarks
				B.	K.	L.	
1.	Nagahat	18 No. Periodical	22	0	0	18	
		Annual	36	0	1	18	
		62 No. Periodical	33	0	0	6	
		29 No. Periodical	32	0	1	0	
		80 No. Periodical	128	0	1	7	
		Annual	130	0	1	19	
		65 No. Periodical	131	0	1	0	
		Annual	265	0	0	13	
		10 No. Periodical	182	0	1	6	
		51 No. Periodical	184	0	2	3	
		Periodical	185	0	1	5	
		32 No. Periodical	187	0	4	10	
		13 No. Periodical	194	0	3	8	
		71 No. Periodical	196	0	3	3	
		27 No. Periodical	232	0	1	19	
		Annual	233	0	0	10	
		25 No. Periodical	228	0	1	7	
		10 No. Periodical	226	0	3	3	
Total Area =				7	1	15	

State—Assam		District—Sibsagar		Mouza—Abhaypur			
Sl. No.	Name of Village	Patta No.	Dag No.	Area to be taken			Remarks
				B.	K.	L.	
1.	Raidhengia Na-Kachari	7 No. Periodical	59	0	0	10	
		153 No. Periodical	60	0	0	15	
Total Area =				0	1	5	

State—Assam		District—Sibsagar		Mouza—Sapekhati			
Sl. No.	Name of Village	Patta No.	Dag No.	Area to be taken			Remarks
				B.	K.	L.	
1.	Kothia Khanda 5th Part	46 No. Periodical	940	0	3	17	
		-do-	941	1	0	2	
		79 No. Periodical	983	0	0	19	
		77 No. Periodical	1033	0	1	0	
		46 No. Periodical	1034	0	1	18	
		-do-	1126	0	0	14	
		23 No. Periodical	1046	0	1	16	
		Annual	1047	0	2	2	
		241 No. Periodical	1037	1	0	7	
		Annual	1043	0	3	2	
		Annual	1079	0	4	6	
		1 No. Periodical	1078	0	1	0	
		Annual	1077	0	1	7	
		1 No. 30 years grant	1066	0	3	13	
		Annual	952	0	0	3	
Total Area =				7	1	6	

State—Assam		District—Sibsagar		Mouza—Abhaypur			
Sl. No.	Name of Village	Patta No.	Dag No.	Area to be taken			Remarks
				B.	K.	L.	
..	Teok	138 No. Periodical	709	0	3	10	
		34 No. Periodical	744	1	0	1	
		11 No. Periodical	745	0	3	10	
		311 No. Periodical	746	0	2	10	
		312 No. Periodical	747	0	2	16	
		7 No. Periodical	752	0	2	5	
		214 No. Periodical	755	0	1	6	
		2 No. Periodical	756	0	2	11	
		7 No. Periodical	757	1	0	5	
		190 No. Periodical	760	0	1	6	
		-do-	761	0	1	10	
		55 No. Periodical	762	1	1	4	
		54 No. Periodical	764	0	0	15	
		-do-	766	0	2	15	
		111 No. Periodical	767	0	2	0	
Total Area =				8	3	4	

State—Assam

District—Sibsagar

Mouza—Baruaehati

Sl. No.	Name of Village	Patta No.	Dag No.	Area to be taken			Remarks
				B.	K.	L.	
1.	Nagahat Kachari Gaon	102 No. Periodical	7	0	1	5	
		Annual	11	0	2	2	
		1 No. 30 yr. Periodical	168	0	2	1	
		Periodical	232	0	4	14	
		67 No. Periodical	245	0	3	1	
		68 No. Periodical	248	0	1	13	
		71 No. Periodical	277	0	1	11	
		75 No. Periodical	275	0	3	5	
		30 No. Periodical	272	0	2	3	
		53 No. Periodical	269	0	0	17	
		59 No. Periodical	268	0	2	1	
Total Area =				4	4	13	

State—Assam

District—Sibsagar

Mouza—Abhaypur

Sl. No.	Name of Village	Patta No.	Dag No.	Area to be taken			Remarks
				B.	K.	L.	
1.	Dakhin Sonari	73 No. Periodical	360	0	1	15	
		29 No. Periodical	252	0	0	19	
		-do-	251	0	2	4	
		-do-	250	1	0	1	
		7 No. Periodical	247	1	0	8	
		59 No. Periodical	246	0	2	7	
		-do-	236	1	0	5	
		-do-	237	0	4	5	
		42 No. Periodical	178	0	1	4	
		41 No. Periodical	177	0	3	15	
		-do-	356	0	2	8	
		-do-	176	0	2	6	
Total Area =				7	1	17	

[No. 12016/6/70-ONGD-IV]

M. MARTIN, Desk officer

श्रम मंत्रालय
(रोजगार और प्रशिक्षण महानिदेशालय)

आदेश

नई दिल्ली, 22 अक्टूबर, 1991

का.आ. 2961.-केन्द्रीय सरकार, शिक्षा अधिनियम, 1961 (1961 का 52) की धारा 8 का उपधारा (i) के अनुसरण में, केन्द्रीय शिक्षा परिषद से परामर्श करने के पश्चात् यह अवधारित करती है कि नीचे की शारणी के स्तंभ 2 में विनिर्दिष्ट अभिहित व्यवसायों के लिये सा.का.नि. सं. 1011, तारीख 10 जुलाई, 1979 और सा.का.नि. सं. 50, तारीख 22 दिसम्बर, 1980 के अधीन उन व्यवसायों के संबंध में पूर्वतर विनिर्दिष्ट कर्मचारों (अकुशल से भिन्न) के लिये विद्यमान व्यवसाय शिक्षा के अनुपात के स्थान पर सवृजित व्यवसाय के सामने स्तंभ 3 में उल्लिखित अनुपात रखा जाएगा।

शारणी

क.सं. अभिहित व्यवसाय

अकुशल कर्मचारों से भिन्न कर्मचारों के लिये व्यवसाय शिक्षा अनुपात

1	2
1. मैकेनिक (खनन मशीनरी)	1 : 10
2. सिरदार (कोयला खान)	1 : 14
3. बिजली मिस्त्री (खान)	1 : 10
4. मेट (खान)	1 : 10

[सं. डा जी ई टी-2 (1) 88-ए पी (भाग)]

सुरेश चन्द्र शर्मा, अवर सचिव

MINISTRY OF LABOUR
(Directorate General of Employment & Training)

ORDER

New Delhi, 22nd October, 1991

S.O. 2961.—In pursuance of sub-section (i) of section 8 of the Apprentices Act, 1961 (52 of 1961), the Central Government after consultation with the Central Apprenticeship Council, hereby determines that for the designated trades specified in column 2 of the table below the existing ratio of trade apprentices to workers (other than unskilled) specified earlier under GSR No. 1011, dated the 10th July, 1979 and GSR No. 50, dated the 22nd December, 1980, in respect of those trades may be substituted as per the ratio indicated in column 3 hereunder against the appropriate trade.

Sl. No.	Designated trades	Ratio of trade apprentices to workers other than unskilled workers
1	2	3
1.	Mechanic (Mining Machinery)	1 : 10
2.	Sirdar (Colliery)	1 : 14
3.	Electrician (Mines)	1 : 10
4.	Mate (Mines)	1 : 10

[No. DGET-2(1)/88-AP. (Part)]

S.C. SHARMA, Under Secretary

आदेश

नई दिल्ली, 22 अक्टूबर, 1991

का.आ. 2962.-केन्द्रीय सरकार, केन्द्रीय शिक्षा परिषद नियम 1962 के नियम 3 और नियम 4 के साथ पठित शिक्षा अधिनियम 1961 (1961 का 52) की धारा 24 का उपधारा (1) और उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र के भाग 2 खंड 3 उपखंड (ii) में प्रकाशित आदेश सं. का.आ. 37(अ) तारीख 22 जनवरी 1991 का निम्न प्रकार संशोधन करती है अर्थात् :-

(1) "ग्राइवेट सेक्टर में स्थातों के नियोजकों के प्रतिनिधि" शीर्ष 3034 GI/91-10

के अधीन क्रम सं. 3 के सामने विद्यमान प्रविष्टि के स्थान पर निम्न-लिखित रखा जायेगा अर्थात् :-

"3. श्री एन. कानन

दि इस्लामाबाद फेडरेशन आफ सदन इंडिया

कमन्सु सेंटर 498 अन्ना सलाई मद्रास-600035"

(2) "केन्द्रिय सरकार के प्रतिनिधि" शीर्ष के अधीन क्रम सं. 1 के सामने विद्यमान प्रविष्टि के स्थान पर निम्नलिखित रखा जाएगा अर्थात् :-

"1. श्री एस. डी. अग्रवाल

अपर शिक्षा सलाहकार और निदेशक (टी) शिक्षा विभाग मानव संसाधन विकास मंत्रालय

शास्त्री भवन नई दिल्ली-110001"

(3) "उद्योग श्रम और नकलाको शिक्षा से संबंधित मामलों में विशेष ज्ञान और अनुभव रखने वाले व्यक्ति" शब्द के अर्थान्तः—

(क) क्रम सं. 3 के सामने "एम्प्लायर्स" शब्द के स्थान पर "एम्प्लॉयज" शब्द रखे जाएंगे;

(ख) क्रम सं. 6 के सामने विद्यमान प्रविष्टि के स्थान पर निम्नलिखित रखा जाएगा अर्थात् :—

"6 श्री विमलेश्वर सिंह भसीरिया
छोटी हवेली

23/29 बजारपुरा

आगरा-282003 ;

(4) "अखिल भारतीय परिषद और प्रादेशिक बोर्ड के प्रतिनिधि" शब्द के अर्थान्तः क्रम सं. 2 के सामने विद्यमान प्रविष्टि के स्थान पर निम्नलिखित रखा जाएगा अर्थात् :—

"2. प्रांतीय फ़ॉर्मल शैक्शनियर

निदेशक मिथुन प्रणिजन बार्ड

पश्चिमी क्षेत्र

ए.टा.आई. कैम्पस

नया प्रशासनिक भवन द्वितीय तल

सियाल ट्राम्बे रोड,

सियाल मुम्बई-400022"।

(सं. डाई टा-8 (2) 91-ए पी)

एम.एन. वरदराजन, उप सचिव

ORDER

New Delhi, the 22nd October, 1991

S.O. 2962.—In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 24 of the Apprentices Act, 1961 (52 of 1961), read with rules 3 and 4 of the Central Apprenticeship Council Rules, 1962, the Central Government hereby amends the Order No. S.O. 37(E), dated the 22nd January, 1991 published in part-II, section 3, sub-section (ii) of the Gazette of India, as follows :—

(1) Under the heading "Representatives of Employers in Establishment in the Private Sector", against serial number 3, for the existing entry, the following shall be substituted, namely :—

"3. Shri N. Kunnan,
The Employers' Federation of Southern India,
Karumuttu Centre, 498, Anna Salai,
Madras-600 035";

(2) Under the heading "Representatives of Central Government", against serial number 1, for the existing entry, the following shall be substituted, namely :—

"1. Shri S. D. Awale,
Addl. Apprenticeship Adviser & Director (T),
Department of Education,
Ministry of Human Resource Development,
Shastri Bhavan, New Delhi-110 001".

(3) Under the heading "Persons having special knowledge and experience on matters relating to Industry, Labour and Technical Education"—

(a) against serial number 3, for the word "Employers", the word "Employees", shall be substituted;

(b) against serial number 6, for the existing entry, the following shall be substituted, namely :—

"6. Shri Vireshwar Singh Bhaduria,
Chhoti Haveli,
23/296, Wazirpur,
Agra-282 003";

(4) Under the heading "Representatives of the All India Council and the Regional Board", against serial number 2, for the existing entry, the following shall be substituted, namely :—

"2. Prof. Francis Thekkiniath,
Director, Board of Apprenticeship Training,
Western Region, ATI Campus,
New Administrative Building, II floor,
Sion Trombay Road,
Sion, Bombay-400 022".

[No. DGFT-8(2)/91-AP]

M. N. VARADARAJAN, Dy. Secy.

नई दिल्ली, 1 नवम्बर, 1991

का आ. 2963—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत गोल्ड माइन्स लि. ओर्गाम के प्रबंधन के संबंध निर्यातकों और उनके कामगारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-91 को प्राप्त हुआ था।

New Delhi, the 1st November, 1991

S.O. 2963.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mines Ltd. Oorgaum and their workmen, which was received by the Central Government on the 31-10-91.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated this the 21st day of October, 1991

PRESENT :

Shri M. B. Vishwanath, B.Sc. LL.B.,

Presiding Officer

Central Reference No. 7 of 1989

I PARTY :

Shri Mohanraj, P. E.,

No. 161027,

R.A.T.A.B. Block,

Champion Reef,

Kolar Gold Fields,

563 120.

(By Sri B. D. Kuttappa,

Vs

II PARTY :

The Managing Director,
Bharat Gold Mines Limited
"Suvarnaghavan",
Oorgaum P.O.,
Kolar Gold Fields 563 120.
(By Sri. T. Raja Ram).

AWARD

In this reference No. L-43012/11/88-D. III(B) dated 1-1-1989, made by the Hon'ble Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the point for adjudication as per Schedule to reference is :—

"Whether the action taken by the Management of the

Bharat Gold Mines Limited in dismissing Sri. L. Mohanraj, General Labourer from service w.e.f. 31-3-87 is justified. If not, to what relief he is entitled?"

2. The allegations against the first party workman are :-

- (1) The first party was advised by the Medical Officer, B.G.M.L. to attend NIMHANS on 21-1-1986 and continue to attend till advised by NIMHANS to return to B.G.M.L. Hospital. But the first party workman attended NIMHANS as out patient on 12-6-1986 and on his own attended the Hospital on 27-8-1986.
- (2) The I Party workman produced the photostat copy of letter dated 2-9-1986 from NIMHANS stating that he had attended the hospital as in-patient from 23-1-1986 to 8-3-1986 to 2-9-1986 as out patient. On verification it was found that I Party attended NIMMANS as out patient on 12-2-1986 and 27-8-1986 only and that I Party workman was never an in-patient.
- (3) The I Party workman, by altering the bills had claimed false medical re-imbursement amounting of Rupees thousand odd.

3. A domestic enquiry was held against the first party and he was dismissed in pursuance of the report Ex. M-5, after giving second show cause notice Ex. M-6, Ex. M-7 is the explanation by the I Party workman. The explanation offered by I Party workman was not accepted and he was dismissed as per Ex. M-8. The order of dismissal Ex. M-8 has been passed by the Manager BGML.

4. Claim statement has been filed by the I Party denying the allegations.

5. The II Party management has filed counter statement, affirming that the charges against the I Party workman are true and that he was rightly dismissed.

6. The evidence has been recorded on the preliminary issue. This Tribunal by a considered order dated 8-3-91 has held that the domestic enquiry held by the II Party against I Party is in accordance with the principles of natural justice and it is in accordance with law.

7. After giving finding on preliminary issue has stated above, the case was posted for arguments on perversity of findings given by the enquiry officer MW-1 A. A. Das, Assistant Personnel Manager, and adequacy of punishment.

8. Exhibit M-5 is the enquiry report submitted by the enquiry officer MW-1, holding that all the four charges levelled against the I Party labourer were proved. MW-1 has given a finding that the I Party was guilty of charges under Standing Order No. 15(b)(24) and 15(b)(34). In view of exhibit M-5, the management issued to the I Party a second show cause notice as per Exhibit M-6. M-7 is the reply of the I Party. The management was not satisfied with the reply of the I Party and the management dismissed the I Party as per Exhibit M-8.

9. I have carefully gone through the findings given by the I Party in his report Exhibit M-5. He has considered all aspects of the matter. I find absolutely nothing to show that the findings are perverse.

10. Now I take up the point whether the punishment of dismissal imposed on I Party by the management as per Exhibit M-8 is adequate or harsh.

11. So far as the Medical reimbursement to which the I Party was entitled is :-

1. Real amount	Rs. 9-28.
	Rs. 31-50.
	Rs. 41-37.

The I Party altered the medical bills.

	Excess amount claimed.
2. Rs. 9-28 to 93-08	= Rs. 74-00
Rs. 31-50 to 850-50	= Rs. 820-00
Rs. 41-27 to 141-38	= Rs. 100-00
	Rs. 994-00

12. It should be mentioned at this stage that, though the I Party tampered the bills and claimed excess of Rs. 994.00, the fraud committed by the I Party was detected and he could not draw the amount. The fact that the I Party could not draw the excess amount of medical reimbursement, in my opinion, is an extenuating circumstances. It should be noted that the past record of I Party was good and it has not been considered in the dismissal order Ex. M-8

13. It has been laid down by the Supreme Court in A.I.R. 1989 S.C. page 149 Scooter India Limited Lucknow Vs. Labour Court, Lucknow that though Disciplinary enquiry is found to be fair and lawful and its findings were not vitiated in any manner, that by itself would not be a ground for non interference of the order of termination of service. The Supreme Court has been pleased to lay down in this authority that the erring workman should be given an opportunity to reform himself and prove to be loyal and disciplined employee.

14. It has been laid down by our Hon'ble High Court by His Lordship the Hon'ble Mr. Justice K. A. Swami in W.P. No. 7785/1987/D.D. on 6-1-89 (N. P. Ranganatha Rao Vs. Mysore Electrical Industries Limited & another) that the penalty must be commensurate with the nature of misconduct. This decision rendered by the Hon'ble Judge has been confirmed by the Bench of our Hon'ble High Court in Writ Appeal No. 513 of 1989 D.D. 8-6-1989. Our Hon'ble High Court has also been pleased to observe that the past record should be taken into consideration.

15. Bearing in mind the nature of misconduct in the present case, against the background of the authority of Supreme Court and the authority of our Hon'ble Court, I am of the opinion, the penalty of dismissal imposed on the I Party by the II Party is harsh.

16. The learned counsel for the II Party management relied on AIR 1972 SC page 32 (Channabassappa Vs. State of Mysore) relates to the dereliction of duty on the part of a police officer. Moreover, this authority relates to the validity or otherwise of the department enquiry. I have already held that the domestic enquiry held against the I Party is proper. This authority does not relate to adequacy or otherwise of the punishment imposed. The learned counsel further relied on the decision of Madras High Court reported in 1986 (2) LLJ page 85 (T. Seeralan vs. The Presiding Officer). This relates to a case of theft. It is true that it has been laid down by the Madras High Court that there is very little scope of generosity to be shown. I have carefully and respectfully followed the decisions of our Hon'ble High Court and the Supreme Court. I am of opinion that 25 per cent of backwages will meet the ends of justice taking into consideration that the misconduct has been proved.

17. All other documents and evidence not referred to by me are not relevant. In any case they do not alter my conclusions reached above.

18. In the result, I pass the following :-

AWARD

The order passed as per Exhibit M-8 imposing penalty of dismissal of I Party is set aside. The I Party shall be reinstated with continuity of service. In the circumstances of the case the I Party is granted 25 per cent of the backwages. Award passed as stated herein. Draw up award accordingly.

M B. VISHWANATH. Presiding Officer

[No. L.43012/11/88-D.II(B)]

का.घा.-2964-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत गोल्ड माईन्स लि. और गाम के.जी. एफ. के प्रबंधक के सबब निषेधको और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-91 को प्राप्त हुआ था।

S.O. 2964.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd. Oorgaum K.G.F. and their workmen, which was received by the Central Government on 31-10-1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated this the 16th day of October, 1991

PRESENT :

Shri M. B. Vishwanath, B.Sc. LL.B., Presiding Officer.
Central Reference No. 24 of 1988

I PARTY :

Shri Solomon, General Labourer, Represented by the
Secretary, Bharat Gold Mines Employees Union,
Marikuppam Post, K.G.F.

(By Sri V. Gopala Gowda, Advocate)

Vs.

II PARTY :

The Chairman-cum-Managing Director, M/s. Bharat
Gold Mines Limited, Oorgaum, K.G.F.
(By Sri T. Raja Ram Advocate)

AWARD

In this reference No. L-42012/3/88-D.III(B) dated 7-4-1988 made by the Hon'ble Central Government in exercise of the powers conferred by Clause 'd' of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the point for adjudication as per Schedule to reference is :—

"Whether the management of Bharat Gold Mines Limited is justified in dismissing Shri Solomon, General Labourer, Mysore Mine Mills from services w.e.f. 29-11-86. If not, to what relief the workman is entitled ?"

2. Ex. M-1 is the charge sheet issued to I Party. As per Exhibit M-1 the allegation against the I Party is that on 29-11-1986 at 4.00 P.M., the I Party, who is a general labourer was found collected gold bearing sand in a plastic bag No. 3 Stamp Mill Battery discharge. The I Party was allocated to work on treating the Mill tank sand but he left the workspot and indulged in collecting the above gold bearing sand with mala fide intention. The I Party has committed the breach of standing order 15-(b) (34). The domestic enquiry was held against the I Party by the then Assistant Personnel Manager, MW-1 Thimmappa Gowda. He gave findings as per Exhibit M-5, holding that the charge against I Party was proved. The II Party issued second show cause notice as per Exhibit M-6. The I Party gave reply to Exhibit M-6 as per Exhibit M-7. The management considered the reply exhibit M-7 as per exhibit M-8. The management stated that the explanation offered by the I Party was not convincing. However, the management ordered fresh enquiry.

3. MW-1 conducted a denovo enquiry. After holding domestic enquiry, MW-1 Thimmappa Gowda, the then Assistant Personnel Manager submitted his findings as per Exhibit M-10, holding that the guilt of the I Party was proved to the hilt. He found that the charge under standing order 15 (b) (34), indulging an act not connected with employer's work and theft of employee property was proved.

4. The management issued second show cause notice as per Exhibit M-11. The I Party did not give any reply to exhibit M-11. The management passed an order of dismissal. The I Party refused to take the dismissal order, when sent by registered post. Exhibit M-17 is the cover.

5. In the claim statement the I Party has stated that he is innocent. He has stated that the domestic enquiry hold against him is illegal. The findings are perverse. He has prayed for reinstatement with continuity of service and full backwages.

6. In the counter statement, the II Party has justified its action. It has stated that the charge against the I Party that he was collection gold bearing sand in a plastic bag No. 3 Stamp Mill Battery discharge was proved. The II Party Management has stated that taking into consideration all aspects, the II Party dismissed the I Party.

7. On the preliminary point MW-1 Thimmappa Gowda, the then Assistant Personnel Manager has been examined. On behalf of the I Party (WW-1) has been examined.

8. My learned predecessor by his considered order dated 8-8-89 has given a finding that the D.E. held against the I Party was held in accordance with law. He has directed the parties to adduce evidence on rest of the points, if any. MW-1 on behalf of the II Party has been recalled and examined. Presumably because of oversight or forgetfulness the evidence of MW-1 recorded on 22-5-1989 has not been signed by my learned predecessor. On behalf of the I Party he has been recalled on 23-8-1989 and examined on other points.

9. There is absolutely no material to show that the I Party was victimised.

10. Arguments were heard on perversity of findings given by MW-1 as per exhibit M-10, and adequacy of punishment.

11. Exhibit M-10, the report of the findings given by MW-1 runs to seven pages. The management witnesses have been cross-examined on behalf of the I Party. The I Party has examined himself and has examined 5 employees as defence witnesses. I have carefully gone through the reports of findings exhibit M-10. In the denovo enquiry the Officer has discussed all the statements recorded before him. It may be stated here that an earlier enquiry was held against the I Party by MW-1 and he submitted his report as per Exhibit M-5. Since the I Party complained that he was not given proper opportunity the management ordered denovo enquiry. The management has erred on the safer side.

12. In the denovo enquiry MW-1 submitted his findings as per Exhibit M-10. MW-1 has stated that the I Party asked the assistance of Mr. Chowridas General Secretary of the Union and the I Party was given the assistance. MW-1 has stated that at every stage the proceedings were read out and explained to I Party and the signature of the I Party was taken to that effect. He has stated that he has given copies of day-to-day proceedings of I Party.

13. MW-1 has stated that in his report Exhibit M-10 in which he has given his findings, he has taken into consideration of the evidence on record. As I have already stated, MW-1 has discussed in Exhibit M-10 the evidence and given his findings.

14. It is argued by the learned counsel for the I Party that none of the documents were marked in second enquiry. Since the documents had already been produced and an earlier enquiry has been held there is no substance in the argument. It is argued that there is improvement made in the second enquiry. This argument has no force. It is argued that complaint was not proved or corroborated and that the mahazar had not been produced. There is no force in this argument because MW-1 has stated in his evidence that he marked some documents in D.E. and they are now marked as exhibit M-12 to M-16, before the enquiry. Exhibit M-15 is the copy of the panchanama. A look at Exhibit M-15 (marking given in this Tribunal) shows that it had been marked before the enquiry exhibit M-2. It is clear from the evidence and the statements of management

witnesses that the I Party was allocated to work at top of the nearside Stamp Mill and he was not assigned the work of collecting any Sand at Stamp Mill battery. The witnesses were present at the time when the I Party was caught. In view of the report made by the management witness Jaisi Ram as per Exhibit M-13 in which he has stated that on 29-11-1986 he was detailed for Mysore Mine Mill Patrol duty from 10.00 a.m. to 6.00 p.m. and at about 4.00 p.m. while patrolling the Stamp Mill he noticed I Party filling sand in a plastic bag at No. 3 Stamp Mill battery discharge and in view of the watch and ward establishment report Exhibit M-14 in which it is stated that the watchman saw the I Party filling a plastic bag with sand at No. 3 Stamp Mill battery discharge at about 4.00 p.m. There is no substance in the argument that the enquiry findings are vitiated. The enquiry officer MW-1 has relied on the statement of disinterested witnesses of the management and he has given his finding.

15. The learned counsel for the I Party took me through the cross-examination of the management witnesses Sunder Raj, Supervisor Watch and Ward establishment (Page 40 of the enquiry proceedings) and submitted that the complaint had not been produced. It is not elicited what exactly is this complaint. In view of the fact that the watch and ward establishment exhibit M-14 (M-3 before the enquiry) and the report Ex. M-13 of Jaisi Ram, Special duty watchman No. 15). (Ex. M-13), there is no force in the argument that the so-called complaint has not been produced before the enquiry officer.

16. It is argued by the learned counsel for the I Party that the complaint was oral and self-serving. I am not able to accept this argument because no notice is attributed to the management witnesses. The I Party has contradicted himself. Once he says he felt thirsty, and therefore he went to spot where he was caught. (Page 48 of the enquiry proceedings) Subsequently he says (page 50) of enquiry proceedings that he was asked by B. Srinivasan, Foreman to get sample in plastic bag. The I Party is trying to wriggle out of a true state of affairs. Without justification is attacking the enquiry report exhibit M-10. It cannot be said that the findings given in exhibit M-10 are perverse.

17. For the aforesaid reasons, I am of opinion, there is nothing show that the findings are perverse.

18. Now I will take up the point whether the punishment of dismissal imposed on the I Party is adequate or not.

19. It is argued by the learned counsel for the II Party that the I Party has committed theft and he pleaded guilty in the earlier enquiry and subsequently changed his stand. It is argued by the learned counsel for the II Party that if a person like I Party, who has committed theft, is allowed to go scot free, others will be encouraged to commit theft. This argument, however, laudable cannot be accepted in view of the law laid down by the Supreme Court and our Hon'ble High Court.

20. Exhibit M-16 is the valuation of the property committed theft of. This valuation as per the exhibit M-16 has been given by the Central Assay and Chemical Laboratory. The value of the gold property committed theft by I Party is valued at Rs. 11.50 ps. approximately. It has been laid down by our Hon'ble High Court in W.P. 7785/87 D.D. 6-1-1989 (N. P. Ranganatha Rao Vs. The Mysore Electrical Industries Limited and Anr.) that the past records of the workman should be taken into consideration. It has been further laid down by our Hon'ble High Court that the penalty must be commensurate with the nature of misconduct. In the said authority of our Hon'ble High Court, His Lordship the Hon'ble Mr. Justice K. A. Swami was pleased to order reinstatement in place of dismissal. His Lordship was pleased to hold that withholding one increment for a period of two years would have been sufficient.

21. It has been laid down by the Supreme Court in A.I.R. 1989 S.C. page 149 (Scooter India Limited, Lucknow Vs. Labour Court, Lucknow) that though Disciplinary enquiry is found to be fair and lawful and its findings were not vitiated in any manner, that by itself would not be a ground for non interference of the order of termination of service. The Supreme Court has been pleased to lay down in this authority that the firing workman should be given an opportunity to reform himself and prove to be loyal and disciplined employee.

22. In the instant case, bearing in mind that the value of the property committed theft was only Rs. 11.50 ps. and that past record of I Party was good, I am of opinion, the penalty of dismissal imposed on the I Party by the II Party is not commensurate and is harsh.

23. The learned counsel for the II Party relied on AIR 1970 Allahabad 210 (New Victoria Mills Co. Ltd., vs. Presiding Officer) this relates to insertion of a wrong provision and theft of another employees property. This authority is not applicable to the facts of the present case. The learned counsel further relied on 1986 (2) LLJ Page 85 (T. Seeralan vs. The Presiding Officer) wherein it has been laid down by the Madras High Court that there is no scope for generosity when the employee is guilty of misconduct of theft which is the offence punishment under I.P.C. I have relied on the decision of our Hon'ble High Court and the Supreme Court. The other two decisions relied on by the learned counsel for the II Party relate to scope of the Tribunal to interfere with the findings of the domestic enquiry. It is not necessary to refer to these two authorities since I have held above that the findings given as per exhibit M-10 by MW-1 are not vitiated or perverse.

24. For the aforesaid reasons, I am of the opinion that the punishment is imposed on I Party is harsh and has to be set aside and reinstatement should be ordered.

25. I am of the opinion, that 25% of backwages will meet the ends of justice.

26. All other documents and evidence not referred to by me are not relevant. In any case they do not alter my conclusions reached above.

27. In the result, I pass the following :—

AWARD

The order of dismissal of I Party is set aside. He shall be reinstated with continuity of service and 25% of the backwages. Award passed as stated herein. Draw up award accordingly.

(Dictated to the Secretary, taken down by him, got typed and corrected by me).

M. B. VISHWANATH, Presiding Officer

[No. 1-43012/3/88-D.III (B)]

नई दिल्ली 6 नवम्बर 1991

का. प्र. 2965-आर्थिक विवाद अधिनियम, 1947 (1947 क 14) को धारा 17 के अनुसरण में केन्द्रिय सरकार इण्डियन एयर लाईंस पालटन बाजार, गुवाहाटी-8 के प्रबंधक के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, गुवाहाटी (असम) के पंचपट को प्रकाशित करती है, जो केन्द्रिय सरकार को 4-11-91 को प्राप्त हुआ था।

New Delhi, the 6th November, 1991

S.O. 2965.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Guwahati, (Assam) as shown in the Annexure in the industrial dispute between the employers in relation to the management of Indian Airlines Paltanbazar, Guwahati-8 and their workmen, which was received by the Central Government on 4-11-1991.

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI, ASSAM

Reference No. 7(c) of 1988

PRESENT :

Shri D. N. Hazarika,
Presiding Officer,
Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute :
BETWEEN

The Management Indian Airlines, Guwahati-8.

AND

Shri Dhaneswar Routh, Borjhar Eksia, P.O. Palasbari,
Dist. Kamrup, Assam.

AWARD

This reference arising out of the Central Government Notification No. L-11012/15/87-D.II (B) dated 20th July, 1988 relates to the dispute indicated in the Schedule below :

“Whether the action of the management of Indian Airlines Paltanbazar, Guwahati-8 in terminating the services of Shri Dhaneswar Routh, Loader, Borjhar Airport with effect from 30-4-86 is justified? If not, to what relief the concerned workman is entitled to and from what date?”

On receipt of the notice both the parties appeared and filed their written statement before the Tribunal.

Management's case in brief is that alleged workman Dhaneswar Routh was never employed by Indian Airlines. No appointment letter was ever issued by Indian Airlines and such question of termination or removal from service does not arise. Father of Dhaneswar Routh was an employee of Indian Airlines who died while in service. Elder brother of the alleged workman Dhaneswar Routh is also an employee of Indian Airlines. So appointment of Dhaneswar Routh as loader on the death of his father on compassionate ground does not arise as one of the family members is already in service.

Case of the workman is that late Ram Prasad Routh who was the father of concerned workman was a regular employee of Indian Airlines. In the month of March 1983 his father Ram Prasad fell ill and the whole family was facing financial hardship. So his father requested Airlines authority to give employment to his son concerned workman) to save the family from starvation. Indian Airlines authority appointed concerned workman as casual labour. Workman joined his service as loader on 16-4-83.

Workman served as loader from 16-4-83 to 30-4-86 to the satisfaction of all concerned. On 30-4-86 duty officer B. N. Goel verbally asked him not to attend duties from 1-5-86. Since then he is out of employment. He further averred that on the death of his father, he applied for regular appointment on compassionate ground as his father died while in service. Indian Airlines refused to appoint him on compassionate ground also.

In support of their respective case management examined two witnesses and exhibited some documents. Workman examined himself and exhibited some documents.

Issue as noted above is termination of service with effect from 30-4-86. On this point according to workman, he was appointed as casual worker on 16-4-83. On his appointment, he obtained work permit from civil aviation authority. According to him, no person is allowed to work or enter into the airport/airfield without this permit. So he obtained work permit Exhibit 8 from civil aviation authority.

Exhibit 8 work permit issued by Civil aviation authority shows that concerned workman Dhaneswar was allowed to work inside Airport from 5-12-85 to 4-3-86. According to him such work permits are generally remain valid for 3 to 4 months only.

After expiry of validity period these work permits are renewed fresh work permits are issued to the casual labourers.

Workman prayed in this Tribunal to call for work permits issued in his name by Civil aviation authority of Guwahati Airport. Accordingly Court called for the documents. In reply controller of Aerodrome Guwahati in his letter dated 28-7-89 informed this Tribunal that original of the temporary work permits issued to Dhaneswar Routh was handed over to his and counterfoils which were kept in the office were destroyed after expiry of validity period. This letter support that work permit Exhibit 8 was issued by Civil aviation authority of Guwahati Airport to the workman to do his part of work inside the Airport. According to management this

Exhibit 8 work permit was not issued by Civil aviation authority. Workman in support of his case filed another work permit issued by the same authority in favour of one Relique Ali. According to the workman this Relique Ali is also a casual labourer working in the Guwahati Airport alongwith him. Further according to workman work permits are issued to all casual labourers by the concerned authority. Hence I find work permits (Ex. 8) are issued to casual labourers enabling them to attend to their respective duties inside the Airfield. Further I find this Exhibit 8 (work permit) issued in the name of workman Dhaneswar Routh by the concerned authority. Dhaneswar Routh during the validity period of this Exhibit 8 served as casual labourer under Indian Airlines. This Exhibit 8 belies the contention of management that workman Dhaneswar Routh never worked as casual labourer under Indian Airlines. According to workman, he served as casual labourer from 16-4-83 to end of April, 1986. I find workman by cogent evidence has establishes that he served as casual labourer under Indian Airlines from April 1983 to April 1986.

Learned counsel for management argued that as there is no relationship of employer and employee between the contending parties no industrial dispute exist. But as discussed above I find workman Dhaneswar Routh was an employee of Indian Airlines and his service has been terminated with effect from 30-4-86. Workman alleges that he was wrongly removed from service. Hence a dispute exist. Contention of learned counsel that no dispute exist does not hold good. It is in evidence that workman Dhaneswar Routh was removed from service by management, though he served continuously for 3 years as casual labourer. It is not the case of the management that workman committed any gross misconduct or management loss confidence in the employee for which he was removed from service. According to workman no chargesheet or notice has been issued by management before termination from service. Therefore I am of opinion that termination of workman Dhaneswar Routh who served continuously for 3 years as casual labourer in the month of April 1986 from service is bad in law and legally not tenable.

Learned Counsel for the workman contended that Ram Prasad father of the workman Dhaneswar Routh died while in service. After the death of Ram Prasad it is the duty of the Indian Airlines to appoint Dhaneswar in regular service on compassionate ground. He contended that appointment of a family member of an employee who dies while in service is an approved policy of Indian Airlines.

Learned Counsel for management argued that elder brother of Dhaneswar Routh is a regular employee of Indian Airlines, so second appointment of Dhaneswar on compassionate ground does not arise. No. 2 management witness Kaushie stated in his evidence that Ram Prasad was a regular employee of Indian Airlines and was appointed as porter of Indian Airlines in the year 1980, i.e. on 22-3-80. Therefore Airlines authority refused to consider the application of Dhaneswar as there is no provision for second appointment on compassionate ground. Workman in his evidence stated that his elder brother lives separately with his family members. He is to maintain his widowed mother and younger brothers after the death of his father.

Indian Airlines adopted policies to appoint on compassionate ground to the spouse or child of a deceased employee who died while in service. As per these rules Airlines to appoint dependents of employees who dies while in service. In the instant case Ram Prasad who was an employee of Airlines died while in service. Workman Dhaneswar Routh applied for appointment on compassionate ground. Management refused to consider his case as his elder is serving as regular employee of Indian Airlines. They refused to give second appointment on compassionate ground. From evidence of management witness M. Koushie I find elder brother of Dhaneswar died on 9-10-83. So it is clear that elder brother of workman Dhaneswar was not appointed on compassionate ground. As per approved policy of Indian Airlines (Ex. B) it was a duty of the management to consider the application of Dhaneswar Routh on compassionate ground as his case is a genuine one.

However as no issue has been framed on this point, no final decision has been delivered on this point i.e. appointment of Dhanswar Routh on compassionate ground. However I feel Indian Airlines should have considered the case of this workman Dhanswar for appointment on compassionate ground.

In view of my above discussion and decisions I find management was not justified in terminating the services of Dhanswar Routh loader Borjhar (Guwahati) Airport with effect from April 1986.

Second part of the issue in question is to what relief concerned workman is entitled to and from what date

On this point as decided above I find workman Dhanswar Routh is entitled to regular appointment with immediate effect.

I give this Award on this 23rd day of October, 91 at Guwahati under my hand and seal.

D. N. HAZARIKA, Presiding Officer
[No. L-11012/15/87-D.II (B)]

नई दिल्ली, 8 नवम्बर, 1991

का.प्र. 2966-औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने, इण्डियन रियर अर्थ्स लि. ऊनर पुर संजाम के प्रबंधन के संबद्ध नियोक्ताओं और उनके कर्मचारियों के बीच अनुरोध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर (उड़ीसा) के पंचाट को प्रकाशित करना है जो केन्द्रीय सरकार को 7-11-91 को प्राप्त हुआ था।

New Delhi, the 8th November, 1991

S.O. 2966.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Orissa, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Indian Rare Earths Ltd., Chatrapur, Ganjam and their workmen, which was received by the Central Government on the 7-11-91.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR PRESENT:

Shri R. K. Dash, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case No. 15 of 1989 (Central)
Dated. Bhubaneswar, the 31st October, 1991

BETWEEN

The Management of M/s. Indian Rare Earths Ltd.,
Chatrapur, Ganjam.

First-Party Management.

AND

Their workmen represented through Rare Earths Employees' Union, Matikhalo, Chatrapur, Ganjam.

Second Party-workmen.

APPEARANCES:

Sri A. K. Choudhury, General Secretary of the Union—
For the second Party-workmen.

Sri A. K. Choudhury, General Secretary—For the second
Party-workmen.

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the

Industrial Disputes Act, 1947 (14 of 1947), and by their Order No. L-29011/5/89-IR(Misc.) dated 28-6-88 have referred the following dispute for adjudication by this Tribunal:—

"Whether the action of the Management of IRE Ltd. (OSCOM), Chatrapur in not regulating the services of Shri Rabindra Moharana and 133 others, casual workers is justified? If not, what relief the workmen concerned are entitled to?"

2. To put shortly, the case of the workmen is that since 1981 they have been working as Carpenters, Plumbers, Electricians etc. in the Indian Rare Earths Ltd., Chatrapur in the district of Ganjam. Although they have been allowed to avail earned leave, medical leave, festival holidays and other fringe benefits equal to that of the employees in regular employment but the management is not regularising their services despite the fact that they have worked for 240 days in most of the years. So, they have prayed that their services be regularised and they be paid equal pay and other allowances at par with the employees in regular employment of their cadre.

3. The case of the management, on the other hand, is that these 134 workmen are casual workers and they are engaged on the basis of the availability of work. By virtue of a tri-partite settlement on 20-10-87 they are being paid wages as unskilled, semi-skilled and skilled workers. It was agreed upon that the management shall absorb them when the regular vacancies would arise. Though at present there are no regular vacancies but however, a professional body has been engaged to determine/re-assess the regular staff strength required by the Indian Rare Earths Ltd., and the assessment has yet to be completed. It is further urged that on completion of the assessment, as aforesaid decision regarding absorption of casual workers would be taken up by the management. Since the matter is under active consideration, these 134 workmen are not entitled to the relief as claimed for and they being casual workers and the responsibility assigned to them being different than that of their counterparts in regular employment, the principle of 'equal pay for equal work' can not be made applicable to them.

4. In view of the pleadings of the parties, the sole question for determination is whether the services of the present 134 affected casual workers are to be regularised. In other words, whether these workmen should be treated as regular employees of the Management.

5. The workmen in support of their case have examined three witnesses and proved certain documents whereas the management did not examine any witness except bringing certain documents on record.

6. Admittedly, these workmen have been working under the management since 1981. For considering the issues involved in this case, it is to be seen from the available materials whether all these workmen have worked for 240 days in any calendar year. It is well settled that the onus lies on the workmen to prove that they have worked for 240 days in any calendar year. Though witness No. 1 for the workmen in his examination-in-chief has not stated anything in that regard but in the cross-examination it is elicited that he has worked for more than 240 days in a calendar year. The other two witnesses examined on their behalf have not spoken anything in that regard. As it appears, the case has not been properly conducted on behalf of the workmen. However, it is the solemn duty of the Court to find out from the evidence if all these workmen have worked for 240 days in any calendar year so that the issue involved in this proceeding can be answered in their favour. From Annexure-C to the statement of claims filed by the workmen coupled with the statement Ext. 2 it transpires that the following workmen have worked for 240 days and more in a calendar year.

- (1) S/Shri Rabindra Moharana,
- (2) Prayakar Moharana,
- (3) P. C. Padhi,
- (4) G. K. Muduli,
- (5) Gopal C. Sahu,

Carpenter
-do-
Plumber
Mason
Electrician

(6) J. N. Reddy,	Rigger	(72) Kumuda Ch. Sahu	-do-
(7) Pitambar Sethi,	U.S.W.	(73) Arjuna Das	-do-
(8) Bankia Naik	-do-	(74) Nilamani Naik	-do-
(9) S. Jaganath Rao	-do-	(75) Dasa Behera	-do-
(10) A. S. S. Rao	-do-	(76) Krushna Ch. Rath	-do-
(11) Arsulu Swain	-do-	(77) P. K. Digal	-do-
(12) S. K. Samal	-do-	(78) Ladu Kishore Das	-do-
(13) Laxman Behra (A)	-do-	(79) Ganesh Behera (B)	-do-
(14) B. C. Misra	-do-	(80) Rangadhar Lenka	-do-
(15) Charan Naik	-do-	(81) E. Srinivas Rao	-do-
(16) Debraj Behera	-do-	(82) Dilleswar Behera	-do-
(17) Mochiram Panigrahi	-do-	(83) E. Gareyya	Driver
(18) Chandrakant Rout	-do-	(84) A. Shyama Rao	-do-
(19) B. Rajulu Reddy	-do-	(85) S. Dasu,	-do-
(20) Prafulla Ku. Panda	-do-	(86) R. Gopal	-do-
(21) B. Gangayya	-do-	(87) G. Ramu	-do-
(22) Khetrabasi Naik	-do-		
(23) Dinabandhu Sahu	-do-		
(24) Bijay Naik	-do-		
(25) Harschandra Das	-do-		
(26) A. Krishna Rao	-do-		
(27) K. Meghnad	-do-		
(28) Sambhu Pradhan	-do-		
(29) D. Purusottam	-do-		
(30) B. Kamaraju	-do-		
(31) Bijay Paradesi	Sweeper		
(32) A. K. Mukhi	-do-		
(33) Mochi Mohakud	U.S.W.		
(34) R. C. Patnaik	-do-		
(35) Bipra Sethi	-do-		
(36) Balaji Pradhan	-do-		
(37) Gangadhar Sahu	-do-		
(38) C S. Sahu	-do-		
(39) Krushna Ch. Sahu	-do-		
(40) Bhagaban Das	-do-		
(41) Harish Ch. Sahu	-do-		
(42) K. C. Moharana	-do-		
(43) N. Pandhiari	-do-		
(44) R. K. Sauh	-do-		
(45) Bankanidhi Jena	-do-		
(46) G. S. Pradhan	-do-		
(47) B. K. Puhan	-do-		
(48) Raju Palei	-do-		
(49) N. K. Reddy	-do-		
(50) Simanchal Behera	-do-		
(51) Surendra Behera (A)	-do-		
(52) K. C. Behera	-do-		
(53) S. Lacheyya	-do-		
(54) D. S. Panda	-do-		
(55) Madri Naik	-do-		
(56) Iswar Sahu	-do-		
(57) P. Tareneya	-do-		
(58) Brahmananda Moharana	-do-		
(59) Judhisthir Behera	-do-		
(60) Subas Mohapatra	-do-		
(61) S. Pappeya Reddy	-do-		
(62) Arjun Behera	-do-		
(63) Chintamani Behera	-do-		
(64) Kora Sahu	-do-		
(65) Bhagirathi Gouda	-do-		
(66) L. N. Acharya	-do-		
(67) Bhagban Behera	-do-		
(68) Malla Behera	-do-		
(69) Bipra Ch. Naik	-do-		
(70) Bigneswar Pala	-do-		
(71) Raghunath Patra	-do-		

In so far as the rest workmen are concerned, it is neither in the oral evidence of the witnesses nor it is borne out from the documents produced in this case that since 1981 they have worked for 240 days in any calendar year and therefore, they are not entitled for absorption as regular employees.

7. Now coming to the case of those 87 workmen named above who have worked for 240 days in a calendar year, it is to be seen from the evidence as to whether it is just and fair on the part of the management to refuse to regularise their services.

It is the case of the management in its pleading that demand was made by these casual workers to absorb them in regular employment and it was finally agreed upon that the management would consider to absorb them as permanent employees on receipt of the report of the professional body engaged by it to determine and/or to reassess the regular staff required by it. This agreement/settlement was made on 27-10-87. Though two years have elapsed by the time the reference was made to this Tribunal no sincere attempt appears to have been made by the management in that regard. A look at the evidence would reveal that though these workers have not been brought at par with the regular employees in so far as their conditions of service and wages are concerned, but they are allowed to avail earned leave, medical leave festival holidays and other fringe benefits equal to that of regular employees. The reason for not regularising their services, it would be seen from the evidence of W.W. No. 3 elicited during cross-examination that the management has entrusted the work of permanent and perennial nature to the contractors. It is, therefore, deducible that the management with an ulterior motive to debar these workers from their legitimate rights, has brought the contractors to picture and entrusted their work which can be done by these workers, if employed permanently. In addition to it, the management has also not been paying them their legitimate dues. As deposed to by W.W. No. 2, an unskilled casual worker is being paid wages @ Rs. 25 per day while such work in regular employment gets salary of about Rs. 800 per month. In so far as a skilled worker is concerned, a casual worker gets Rs. 40 per day while the wage rate of a regular skilled worker is Rs. 70 per day. This discrimination, in my opinion, is illegal discriminatory and violative of the principles of natural justice. Being engaged as casual labourers for about nine years these workers have been rendering the equal service as is being done by the regular employees of their cadre. Clause (2) of Article 38 of the Constitution of India which contains one of the directive principles of State Policy provides that the State shall, in particular, strive to minimise inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities not only amongst the individuals but also amongst group of people residing in different areas or engaged in different vocations. I am reminded of the decision of the Hon'ble Supreme Court reported in 1988 (1) 111 Page 370 Daily Rated Casual Labour employed under P&T Dept., through Bharatiya Dak Tar Mazdoor Manch Vrs.

Union of India and others) wherein their Lordships have rules thus:—

"India is a socialist republic. It implies the existence of certain important obligations which the State has to discharge. The right to work, the right to free choice of employment, the right to just and favourable conditions of work, the right to protection against unemployment, the right of every one who works to just and favourable remuneration ensuring a decent living for himself and for family, the right of every one without discrimination of any kind to equal pay for equal work, the right to rest, leisure, reasonable limitation on working hours and periodic holidays with pay, the right to form trade unions and the right to join trade unions of one's choice and the right to security of work are some of the rights which have to be ensured by appropriate legislative and executive measures. It is true that all these rights cannot be extended simultaneously. But they do indicate the socialist goal. The degree of achievement in this direction depends upon the economic resources, willingness of the people to produce and, more than all, the existence of industrial peace throughout the country. Of those rights the question of security of work is of utmost importance. If a person does not have the feeling that he belongs to an organisation engaged in production, he will not put forward his best effort to produce more. That sense of belonging arises only when he feels that he will not be turned out of employment the next day at the whim of the management. It is for this reason it is being repeatedly observed by those who are in charge of economic affairs of the countries in different parts of the world that as far as possible security of work should be assured to the employees so that they may contribute to maximisation of production. It is again for this reason that management and the Government agencies in particular should not allow workers to remain as casual labourers or temporary employees for an unreasonably long period of time.

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Let us remember the slogan: "Produce or Perish". It is not an empty slogan. We fail to produce more at our own peril. It is against this background that we say that non-regularisation of temporary employees or casual labour for a long period is not a wise policy. We, therefore, direct the respondents to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts & Telegraphs Department."

8. In view of my discussions coupled with the dictum of the Hon'ble Supreme Court, I hold that the action of the management in not regularising the services of 87 casual workers named above, is illegal and unjustified. Hence, I direct that the management shall prepare a scheme on a rational basis for absorbing as far as possible the above named 87 casual labourers. This absorption shall be completed within six months of passing of this Award and the payment of wages and other allowances equivalent to the pay scales of the regularly employed workers in the corresponding cadre shall be made from the date of this Award.

The reference is answered accordingly.

R. K. DASH, Presiding Officer

[No. I-29011/5/89-IR(Misc.)]

B. M. DAVID, Desk Officer

नई दिल्ली, 4 नवम्बर, 1991

का.प्र. 2967.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वयण में केन्द्रीय सरकार बोर्लिंगर औद्योगिक ग्राम्या बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अन्वय में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण 3034 GI/91—11

उद्देश्य बोर्लिंगर के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 4-11-91 को प्राप्त हुआ था।

New Delhi, the 4th November, 1991

S.O. 2967.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bolangir Anchalik Gramya Bank and their workmen, which was received by the Central Government on 4-11-1991.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
PRESENT :

Shri R. K. Dash, LL.B., Presiding Officer,
Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case No. 31 of 1988 (Central)
Bhubaneswar, the 24th October, 1991

BETWEEN

The Management of Bolangir Anchalik Gramya Bank,
Bolangir First Party-Management

AND

Their workmen represented through Bolangir Anchalik
Gramya Bank Employees' Association, Bolangir
Second Party-workman.

APPEARANCES :

- (1) Sri P. Roy, Administrative Officer—For the First Party-Management.
- (2) Sri R. S. Sahoo, Officer.
- (1) Sri S. K. Hota, General Secretary—For the Second of the Association Party-workmen.
- (2) Sri S. K. Das, representative of All Orissa Bank Employees' Federation.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their Order No. L-12011/86/87-D.II (A)/D.IV (A) dated 3-8-88 have referred the following disputes for adjudication by this Tribunal :—

- (1) Whether the action of the management of Bolangir Anchalik Gramya Bank in terminating the services of S/Shri R. N. Bohidar, K. B. Rao, M. N. Adjued and P. N. Patel, all junior Cashier-cum-Clerks w.e.f. 28-4-86 is justified? If not, to what relief the workmen are entitled to?"
- (2) Whether the demand of the workman Sri A. C. Naik for regularisation and equal pay and other benefits at par with the regular employees of the bank doing the same and similar nature of work is justified? If not, to what relief the workman is entitled to and from which date?"
- (3) Whether the action of the management of Bolangir Anchalik Gramya Bank in not making payment of revised salary except H.R.A. Personnel Allowance w.e.f. 1-1-1985 as per Orissa Revised Scale of Pay Rules, 1985 is justified? If not, to what relief the workmen are entitled to?"

2. Briefly stated the case of the workmen in so far as the first dispute is concerned is that four affected workmen, namely, R. N. Bohidar, K. B. Rao, M. N. Adjued and P. N. Patel joined their services as Junior Cashier-cum-Typists in the Bolangir Anchalik Gramya Bank on 15-10-84. Their period of probation was one year. After completion of the probation period they were not confirmed in their posts instead

the management extended the probation period for another six months. On completion of the extended period of probation, the management instead of confirming them terminated their services on making payment of one month's salary for the notice period. Feeling aggrieved by such action of the management they preferred appeal to their higher authority but the same did not bear any result. According to them, this severe punishment awarded to them without resorting to any domestic enquiry is illegal, unconstitutional and in violation of the principles of natural justice.

Coming to the second dispute, it is pleaded that the services of the workman Sri A. C. Naik who joined in August 79 were neither regularised nor he was granted annual increment. He continued to draw his pay @ Rs. 255 per month for a long time. After the wage revision, he was denied of the revised scale of pay for no fault of his own. That apart, the other facilities like leave and promotion were not given to him. In August '84 he was called to appear for the interview for the post of Sr. Clerk but the result thereof was not communicated to him in consequence of which he was deprived of his legitimate promotion coupled with financial benefits. It is further pleaded that persons junior to him though have been promoted long back but his case has not been considered by the management which, it is urged, amounts to discrimination and violation of the principles of natural justice.

In so far as the third dispute is concerned, the case of the workmen is that the revised salary though has been made effective from 1-1-85 as per the Orissa Revised Scale of Pay Rules, 1985 but the arrears as per the revised scale for the period from 1-1-85 to 30-9-85 has not been paid to the staff of Bolangir Anchalik Gramya Bank so far despite repeated demands by the Union.

3. The management, on the other hand, has pleaded inter-alia that the four probationers, namely, R. N. Bohidar, K. B. Rao, M. N. Adjued and P. N. Patel were terminated from their services by the Chairman as per the provisions contained in Clause 8(3)(a) of the Bolangir Anchalik Gramya Bank Staff Service Regulations (hereinafter referred to as the 'Regulations'). The reason of such termination is that during their extended period of probation, they participated in a strike, remained unauthorised absence for 24 days and failed to perform their duty satisfactorily.

As regards the second dispute, it is urged that the workman Sri Naik who was given adhoc appointment could not qualify in the recruitment test in 1981. After the result of examination was published the successful candidates were given appointment but Sri Naik having failed to qualify in the examination was allowed to continue on adhoc basis as before and for this reason his services were not regularised. His appointment being temporary and on adhoc basis, he can not claim benefits at par with the regular employees. While preparing common list of candidates of junior clerks to be considered for promotion to the posts of Sr. Clerk inadvertently the name of Sri Naik was included and intimation was sent to him to attend the interview. When this mistake came to light he was dropped. In explaining away as to why Sri Naik has been allowed for a long period to continue to work on adhoc basis, it is urged by the management that it referred his case to the National Bank for Agriculture and Rural Development (for short NABARD), a major shareholder which finally opined that Sri Naik having failed to qualify in the test his services should not be regularised. His continuance in service therefore, is due to the time spent in the correspondence made between the management and the NABARD.

The next remains the third dispute. According to the management, the reason for the delay occasioned in not making payment of the arrear salary in the revised scale from 1-1-85 to 30-9-85 is that there is a conflict between the State Government circular and the letter issued by the NABARD and for this a clarification has been sought for from the NABARD and the reply is still awaited.

4. On the pleadings of the parties as aforesaid, the following issues are settled :—

- (1) If the alleged action of the Management of Bolangir Anchalik Gramya Bank in terminating the

services of S/Shri R. N. Bohidar, K. B. Rao, M. N. Adjued and P. N. Patel, Junior Cashier-cum-Clerks with effect from 28-4-1986 is legal and/or justified ?

- (2) If the said terminations were brought about in terms of the Regulation 8(3)(a) of Bolangir Anchalik Gramya Bank Staff Service Regulation on ground of unsatisfactory service or the said termination were brought about by way of victimisation and malafide of the Management ?
- (3) If the demand of the workman Sri A. C. Naik, Junior Clerk for regulation and equal pay and other benefits at par with the regular employees of the bank doing the same and similar nature of work is justified ?
- (4) If the action of the Management of Bolangir Anchalik Gramya Bank in not making payment of revised salary with effect from 1-1-1985 till 30-9-1985 is legal and/or justified ?
- (5) To what relief, if any, the second party-workmen are entitled ?

5. In course of hearing the workmen in support of their case examined three witnesses and proved certain documents. On the other hand, the representative of the management declined to adduce any evidence and filed a memo in that regard.

6. As regards termination of services of Sri R. N. Bohidar and three others is concerned, no evidence has been led by the management giving out the circumstances which compelled it to take such stern action against them. It is the admitted case of the management, as borne out from its written statement, that the appointing authority is competent under Clause-8 of the Regulation to terminate the service of a direct appointee if he is of the opinion that he is not fit for confirmation. Law is very clear that any order passed by the authority without assigning cogent reasons which affects the rights of the subordinates is not sustainable. In the present case, evidence from the side of the management is lacking as to whether the authority had passed a reasonable order opining that the affected four workmen were not fit for confirmation in the post held by them. On the other hand, witness No. 1 for the workmen in his evidence has stated that he and his three colleagues though performed their duty to the satisfaction of the management and there having no allegation about their performance and in absence of any domestic enquiry their services were terminated without assigning any reason. He further speaks that the employees of Bolangir Anchalik Gramya Bank went on a strike and they being the members of the Bolangir Anchalik Gramya Bank Employees Association took part in the said strike. The management instead of taking action against all the employees, selected him and his other three colleagues and took action against them by terminating their services. He has proved the orders of termination passed against them marked Exts. 1 to 1/3. These orders do not envisage the circumstances which led the management to take such stern action against them.

In view of my discussions made above, I am of the opinion that the order of termination passed against the four workmen, namely, R. N. Bohidar, K. B. Rao, M. N. Adjued and P. N. Patel with effect from 28-4-86 is illegal and unjustified. They having completed their period of probation, as deposed to by witness No. 1, should be reinstated in service as regular employees of the management and paid all back wages inclusive of increment and other financial benefits, if any.

7. Coming to the question of regularisation of service, equal pay and other benefits of the workman Sri A. C. Naik at par with the regular employees of the bank, for the reasons to follow I hold that refusal of the management to give all those benefits to the workman Sri Naik is illegal and violative of the principles of natural justice.

According to the workmen, Sri A. C. Naik was appointed as a Jr. Clerk on probation on 21-8-79. On the other hand, it is the case of the management that appointment of Sri Naik was purely on adhoc basis and therefore, he

was given an opportunity to qualify himself in the recruitment test held in 1981 but he could not come out successful for which his services were not regularised. Even accepting the case of the management as aforesaid, it does not stand to reason as to how and under what circumstances Sri Naik was allowed to continue as a Clerk for so many years when he failed to qualify himself for the said post. After the result of the recruitment test was published the management ought to have terminated the adhoc appointment. Instead of doing so, it allowed him to continue as a Clerk.

In the premises, I hold that since the workman Sri A. C. Naik has served the management for many years, he shall be treated as a regular employee of the management and all the financial benefits admissible under rules to a Junior Clerk be given to him.

8. Next remains the issue regarding non-payment of salary in the revised scale with effect from 1-1-85 to 30-9-85 to the workmen. It is the case of the management that such payment could not be made due to divergent opinion of the Finance Department of the State Government as well as the NABARD. Be that as it may, the employees of the management should not be denied of such benefit for a pretty long time.

I would, therefore, hold that those employees of the management who are eligible to get salary in the revised scale should be paid within two months hence.

The reference as discussed above is answered accordingly.

R. K. DASHUB, Presiding Officer
[No. L-12011/86/87-D.II (A)/D.IV (A)]

नई दिल्ली, 8 नवम्बर, 1991

का.प्र. 296.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्र सरकार रक्षा सिद्धि ग्रामिन बैंक के प्रबलतंत्र के सबूत निरोधकों और उनके कर्मचारियों के बीच अनुबंध में विद्विष्ट औद्योगिक विवाद में केन्द्र सरकार औद्योगिक अधिकरण व श्रम मन्त्रालय जबलपुर के पंचपर की प्रकाशित करती है जो केन्द्र सरकार को 7-11-91 को प्राप्त हुआ था।

New Delhi, the 8th November, 1991

S.O. 2968.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Rewa Sidhi Gramin Bank and their workmen, which was received by the Central Government on 7-11-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LCR(41)/1987

PARTIES :

Employers in relation to the management of Rewa Sidhi Gramin Bank, H.O. Gurunanak Market, Amahiya Road, Rewa (MP)

AND

Their workman, Smt. Pushpa Devi Jatav, W/o Shri K. L. Jatav, Guru Road, R/o Nehru Colony, Rewa (MP).

APPEARANCES :

For Workman—Shri R. Menon, Advocate.

For Management—Shri Vivek Awasthi Advocate.

INDUSTRY : Banking DISTRICT : Rewa (MP)

AWARD

Dated, the 29th October, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/155/

86-D.II (A) dated 14-4-1987, for adjudication of the following dispute :—

"Whether the action of the management of Rewa Sidhi Gramin Bank in dismissing from service Smt. Pushpa Devi Jatav w.e.f. 1-7-81 is justified ? If not to what relief is the workman concerned entitled ?"

2. Facts leading to this case are that the workman, Smt. Pushpa Devi Jatav, was working under the Rewa Sidhi Gramin Bank, Rewa. She was dismissed from service with effect from 1-7-1981. She was charge-sheeted as follows :—

"Mrs. Pushpa Jatav Clerk/Cashier while working in despatch department at Head Office of the Bank from 11-4-80 to 17-7-80 committed a fraud causing wrongful loss to the bank to the tune of Rs. 715.30 and wrongful gain to herself.

Mrs. Pushpa Jatav, therefore, charged of knowingly committing the fraud which is an act detrimental to the interest of the bank causing loss to the bank. A detailed statement of allegations is attached herewith. Should Mrs. Jatav desire to submit her explanation she may directly send the same to Shri S. L. Verma, Manager (Personnel) who has been appointed an Enquiry Officer."

Statement of allegations against her were as follows :—

"3. That during the period from 11-4-80 to 17-7-80 she perpetrated a fraud to the tune of Rs. 715.30 (Rs. Seven hundred fifteen and paise thirty only) by causing wrongful loss to the bank and wrongful gain to herself.

4. That her; modus oprendi was as under :—

A. That after writing an entry of the postage valuation in the register such as 45 paise, she after getting the entry checked by checker forged the entry by putting Rs. 1 or Rs. 2 as the case may be before the denomination of 45 paise therefore enhancing the value of postage to Rs. 1.25 and Rs. 1.45 etc.

B. That some of the individual forged entries have been shown in Annexure I illustrating her modus oprendi which is an extract from postage register.

C. Detailed chart of the relevant entries which is an extract from the postage registers maintained by her is enclosed herewith as annexure II.

5. That some of the envelopes addressed to various offices upon which she fixed the stamps but enhanced the value in the register thereafter by the same modus oprendi which have been seized and are held on record. A list of these envelopes are attached herewith as annexure III."

3. My learned predecessor framed the following issues in the above case and vide order dated 27-11-90 this Tribunal held that the departmental enquiry was validly held. It is proper and legal and the question of asking the management to lead evidence in relation to the misconduct of the workman before this Tribunal does not arise. Hence we have only to confine ourselves on Issues No. 2, 4 and 5 :—

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal ?
2. Whether the punishment awarded is proper and legal ?
3. Whether the management is entitled to lead evidence before this Tribunal ?
4. Whether the termination/action taken against the workman is justified on the facts of the case ?
5. Relief and costs.

FINDINGS WITH REASONS :

4. So far the question of perversity of finding is concerned I am unable to accept the arguments of the workman because the order of the findings is well discussed and six witnesses viz. Smt. Mita Shukla, Officer, Shri S. P. Dwivedi, Officer, Shri S. S. Patel, Manager, Shri R. K. Srivastava, Branch Manager, Shri A. N. Shah, Officer and Shri S. N. Prasad,

Manager have proved the misconduct of the workman in details by producing the entire record during the departmental enquiry. I need not go into the details of the departmental enquiry. I am satisfied that the findings are not perverse.

5. So far the question of propriety or justification of the action taken against the workman is concerned nothing short of dismissal can be given on the alleged misconduct. Thus the punishment is proper and the workman is not entitled to any relief. I accordingly hold that the punishment awarded is proper and legal, termination/action taken against the workman is justified on the facts of the case and the workman is not entitled to any relief. Reference is accordingly answered as follows :—

The action of the management of Rewa Sidhi Gramin Bank in dismissing from service Smt. Pushpa Devi Jatav, w.e.f. 1-7-81 is justified. She is not entitled to any relief. No order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-12012/155/86-D.II (A)]

का.भा. 2969.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रिय सरकार भारतय स्टेट बैंक के प्रबंधन के संबंध निवाजकों और उनके कर्मचारों के बीच अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिकरण व श्रम न्यायालय, जबलपुर के पंचपट को प्रकाशित करता है, जो केन्द्रिय सरकार को 7-11-91 को प्राप्त हुआ था।

S.O. 2969.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 7-11-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(36)/1987

PARTIES :

Employers in relation to the management of State Bank of India, Niwari Branch, Tikamgarh (M.P.)

AND

Their workmen S/Shri Rakesh Tiwari and Brij Mohan Gupta, Sub-staff represented through the State Bank of India and Subsidiary Bank Employees Union C/o State Bank of India, Regional Office Marhatal Jabalpur (M.P.).

APPEARANCES :

For Union/Workmen—None.

For Management—Shri M. L. Namdeo.

INDUSTRY : Banking

DISTRICT : Tikamgarh

AWARD

Dated, the 28th October, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/110/86-D.II (A) dated 16th April, 1987, for adjudication of the following dispute :—

“Whether the action of the management of State Bank of India, Niwari Branch, Tikamgarh District in terminating the services of S/Shri Rakesh Tiwari and Brij Mohan Gupta, Sub-staff w.e.f. 4-2-86 is justified? If not, to what relief is the workman concerned are entitled?”

2. Parties have filed their respective statement of claims and rejoinder. The Schedule to the Reference Order was treated as issue for adjudication by this Tribunal. The case was therefore fixed for evidence of parties on 16-8-1990.

On 16-8-90 neither any representative of the parties nor any witness was present. The case was therefore adjourned to 29-11-90. Again none appeared on this date. An order was, therefore, passed vide proceedings dated 29-11-90, that if appearance is not made it shall be presumed that the parties have no interest in the case. Notice to this effect fixing 28-10-1991 was issued to the parties.

3. On 28-10-1991 Shri M. L. Namdeo appeared on behalf of the management but nobody appeared on behalf of the 26-4-89, 28-6-89, 24-4-90, 5-6-90, 16-8-90, 29-11-90, 26-4-89, 28-6-89, 24-4-90, 5-6-90, 16-8-90, 29-11-90, 28-3-91 and 6-6-91 none appeared on behalf of the workmen despite intimation and registered notice. Today again none is present on behalf of the workmen to prosecute their case. Under the circumstances, it appears that the workmen have no interest in the proceedings. I, therefore, record a No Dispute Award without any order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-12012/110/86-D.II (A)]

का.भा. 2970.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रिय सरकार महाकाउशल क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबंध निवाजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिकरण व श्रम न्यायालय, जबलपुर के पंचपट को प्रकाशित करता है, जो केन्द्रिय सरकार को 7-11-91 को प्राप्त हुआ था।

S.O. 2970.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Maha Kaushal Kshetriya Gramin Bank and their workmen, which was received by the Central Government on 7-11-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(109)/1990

PARTIES :

Employers in relation to the management of Mahakaushal Kshetriya Gramin Bank, 164, Shivaji Ward, Civil Lines, Narsinghpur-487001

AND

Their workman, Shri Ram Kishore Shukla, C/o Shri P. N. Sharma, 551 Gorakhpur, Jabalpur-482001.

APPEARANCES :

For Workman—Shri P. N. Sharma.

For Management—None.

INDUSTRY : Banking

DISTRICT : Narsinghpur

AWARD

Dated, the 15th October, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/69/89-IR-B-I (B-3) dated 9/18-4-1990, for adjudication of the following dispute :—

“Whether the action of the management of Maha-Kaushal Kshetriya Gramin Bank, Narsinghpur in terminating the services of Shri Ram Kishore Shukla Ex-Clerk, w.e.f. 13-10-1988 in violation of Sections 25-F and 25-H of the Industrial Disputes Act, 1947 is justified? If not, to what relief the workman concerned is entitled?”

2. Facts leading to this case are that the workman concerned, Shri Ram Kishore Shukla, was employed in the Khetriya Bank at Jabalpur Branch during the year 1987-88.

3. The workman says that he was appointed at Jabalpur Branch of the Bank on 18-8-1987 and he continued to work in the Bank upto 12-10-1988. His services were wrongfully terminated w.e.f. 13-10-1988 without any prior notice, wages in lieu of notice or retrenchment compensation as provided in Section 25-F of the I. D. Act, 1947. He was appointed against permanent vacancy. He was a full time regular employee. He was therefore entitled to full scale wages as may be determined by the Central Government from time to time. The provisions were violated by the management of the Bank.

4. Thus the workman had put in continuous service for more than 240 days as defined under Section 25-B of the I. D. Act. The ordinary rule of retrenchment is 'last come first go'. After the termination of workman's services the management have made fresh appointments in the Bank there by violated the provisions as made under Sections 25-G and 25-H of the I. D. Act.

5. The workman is therefore entitled to reinstatement in service with full back wages and all ancillary benefits like seniority and increments etc.

6. The management filed its statement of claim duly signed by the Chairman of the Bank. None appeared on behalf of the management throughout the proceedings. Only on 10-7-1990 Shri Chandurkar, advocate, appeared for the management who was prohibited on being objected to by the representative of the workman in writing.

7. The management in its statement of claim says that the concerned workman was engaged during the year 1987-88 purely on daily wage basis for a temporary period. Since he was engaged purely on daily wage basis for a specified period to perform the clerical nature of work and therefore he was not engaged against any clear vacancy.

8. The management has to follow various instructions and guidelines issued by the Government of India, reserve Bank of India, National Bank and the Sponsor Bank. Since December 1985 no Bank can recruit any clerical staff directly on their own. The recruitment of Clerks is made through advertisement, thereafter written examinations and interviews are held and the list of selected candidates is prepared. This procedure was not followed while engaging the workman concerned purely on daily wages. It is contended that the workman was never engaged against any clear vacancy. Thus because of the temporary and casual requirement, the services of the concerned workmen were utilised by the Bank and by such an utilisation the employee cannot claim any right to hold the post. The management has not violated the provisions of Sections 25-F, 25-G or 25-H of the I. D. Act as the aforesaid provisions are not applicable in the present case. The action taken by the management in terminating the services of the employee is therefore justified and he is not entitled to any relief.

9. Reference was issued in this case and the case was fixed for evidence of parties. As already stated above the management did not participated in the proceedings except filing their statement of claim. The case was therefore proceeded ex-parte against the management on 3-10-1991.

10. The workman in support of his case filed and sworn affidavit before this Tribunal. Shri Ram Kishore Shukla, workman concerned, has solemnly affirmed in his affidavit that he was employed as Clerk by the Mahakaushal Kshetriya Gramin Bank H/O Narsinghpur at their Jabalpur Branch on 18-8-1987 and continued upto 12-10-1988. His services were terminated w.e.f. 13-10-1988 without any enquiry. No prior notice of wages in lieu of notice and retrenchment compensation were given. There was permanent need of clerks/cashiers in the Bank and his appointment was made against permanent vacancy. After his termination the Bank gave appointment to 13 persons in clerical cadre (named below) and they still continue in service.

NAME	When employed
Ku. Geeta Pillai	12-10-1988
Nand Kishore Dhile	14-10-1988

Janendra Jetwa	15-10-1988
Sidarath Uike	15-10-1988
R. Murli	28-10-1988
Rajesh Ekka	31-10-1988
R. Jaishanker	03-11-1988
Mitendra Jharina	27-10-1988
Ku. Sharda Singh	10-03-1989
Ku. Manisha	13-03-1988
Ku. Sadhna Verma	14-03-1989
Onkar Jharina	16-03-1989
Ku. Tulika	27-04-1989.

He has further stated that since the date of his termination he is no where gainfully employed.

11. Material question for determination is whether the workman was employed on a temporary post, whether he has completed more than 240 days continuous service and whether the management has followed the provisions of the I. D. Act before terminating the services of the workman.

12. From the pleadings of the parties and the unchallenged evidence of workman on affidavit it is amply proved that the workman was employed by the Bank during the year 1987-88 from 18-8-1987 to 12-10-1988. Thus he has completed more than 240 days continuous service. After the termination of the workman the management employed 13 persons in clerical cadre and they still continue in service. Thus there was permanent work in the Bank for clerical cadre. The workman was therefore employed in permanent vacancy. It is admitted by the management that prior to his termination no notice pay in lieu of notice or retrenchment compensation was paid by the management. Thus the management has violated the provisions of Sections 25-F, 25-G and 25-H of the I. D. Act and these provisions are fully applicable in the case of the present workman. The termination of services of the workman, therefore, void ab initio and is liable to be and is hereby quashed. There are plethora of judgments of the highest Court of the land. Leading cases are--

- (1) State Bank of India Vs. N. Sunderamoney 1976-1-LJ-476.
- (2) Santosh Gupta Vs. State Bank of Patiala AIR 1980 (SC) 1219.
- (3) L. Robert D'Souza Vs. Executive Engineer, Southern Railway 1982 LIC p. 811.
- (4) Mohan Lal Vs. Management of Bharat Electronic Lts. 1981 Lab. I.C. 806 (SC).

13. The workman concerned, Shri Ram Kishore Shukla, is accordingly entitled to reinstatement with full back wages and all consequential benefits with continuity in service. Reference is accordingly answered as under :—

The action of the management of Mahakaushal Kshetriya Gramin Bank, Narsinghpur, in terminating the services of Shri Ram Kishore Shukla Ex-Clerk, w.e.f. 13-10-1988 in violation of Sections 25-F and 25-H of the Industrial Disputes Act, 1947 is not justified. He is entitled to reinstatement with full back wages and all the consequential benefits with continuity in service. However, there will be no order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-12012/69/89-JR (B-I)/(B-III)]

का.प्र. 2971.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, प्रमुख में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण व अम न्यायालय, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-91 को प्राप्त हुआ था।

S.O. 2971.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown

in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 7-11-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(65)/1986

PARTIES :

Employers in relation to the management of State Bank of India Jabalpur and their workmen S/Shri A. K. Khare.

AND

M. L. Verma, represented through the S.B.I. and Subsidiary Bank Employees' Union C/o State Bank of India, Regional Office, Marhata, Jabalpur (MP).

APPEARANCES :

For Union/Workmen—Shri R. K. Dube.

For Management—Shri J. P. Srivastava.

INDUSTRY : Banking DISTRICT : Jabalpur (MP)

AWARD

Dated, the 29th October, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/236/85-D.II (A) dated 1-8-1986, for adjudication of the following dispute :—

"Whether the action of the management of State Bank of India Jabalpur (M.P.) in considering absence of S/Shri A. K. Khare and M. L. Verma on 19-8-85 as strike vide issue of memorandum by Branch Manager, Katni dated 20-8-85 is justified? If not, to what relief they are entitled?"

2. The reference hinges on the short point as to whether Shri A. K. Khare and Shri M. L. Verma Cashier-cum-clerks of the State Bank of India, Jabalpur (M.P.) were rightly considered as absent on 19-8-85 as strike vide issue of the Memo by Branch Manager, Katni dated 20-8-85.

3. It is alleged that the following workmen were absent during the period given against them unauthorisedly. The case of Shri H. Nalwade is not in issue under the Schedule to the reference. Hence his case need not be considered.

1. Shri H. Nalwade 10.30 a.m. to 12.45 p.m.
2. Shri A. K. Khare 01.00 p.m. to 2.30 p.m.
3. Shri M. L. Verma 03.00 p.m. to 4.50 p.m.

3. It is alleged that the following workmen were absent

4. According to the management, the protests arose on account of the transfer of Shri H. Nalwade, Cashier-cum-clerk from Accounts Department to Cash Department at Katni Branch. This change was not liked by the Union workers. To show their resentment and with a view to disrupt the smooth functioning of the branch, the Union workers resorted to dilatory tactics to paralyze the working. Accordingly the following cashiers (named above) remained away from duties unauthorisedly for the period shown against them. It was violative of Staff Circular No. 40 of 1985 dated 21-2-1985 and hence the Branch Manager treated them on unauthorised absent for a partial suspension of work and the workmen were treated on leave without pay.

5. Management further says that the word 'strike' has been misinterpreted in the order of reference. Even otherwise also the alleged unauthorised absence is covered within the definition of Section 2(q) of the I. D. Act being partial cessation of work on particular day by a body of persons employed in the above industry acting in combination, or a concerned refusal, or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment."

6. Workmen have denied that they had remained absent for any reason for the alleged period. They were very much

on duty during the said period. Because the Branch Manager was annoyed with him on account of the fact that they wanted to have a talk during lunch hours which was refused by the Branch Manager. They tried to contact him but in vain. Being annoyed the Branch Manager treated them absent giving the definition of strike deducted their wage for the same day and treated them on leave without pay. Circular referred to by the management has been misinterpreted and the management has taken action by assuming them to be absent on strike and as such misused his power. The circular is not disputed.

7. No oral evidence was led by either party. The workmen vide proceedings dated 14-9-87 accepted the documents Ex. M/1 to Ex. M/10 filed by the management. We are mainly concerned with documents Ex. M/8 and Ex. M/10. Ex. M/10 is the attendance register which gives a note to the effect that the workman Shri M. L. Verma was missing from 3 p.m. to 4.30 p.m. and Shri A. K. Khare from 1 p.m. to 2.30 p.m. There is no evidence contrary to this. Thus this admitted fact has to be admitted that Shri M. L. Verma and Shri A. K. Khare were missing for the period shown against them.

8. Back ground of the case can be gathered from the various documents i.e. Ex. M/1 to Ex. M/7. The workmen themselves admitted in their pleading that there was some dispute between the management and the Union workers. They have not denied this fact that Shri H. Nalwade Cashier-cum-clerk was transferred from Accounts Department to Cash Department of the Katni Branch. They have also not denied this fact that they were not happy with this transfer. These facts can be well gathered from the pleadings including rejoinders as also the written arguments filed by the parties.

9. Technically this conduct of the workmen can be deemed to be strike as defined under Section 2(q) of the I. D. Act because there was certainly cessation of work by a body of persons in the Banking industry acting in combination. Even otherwise also the said clause has not been misinterpreted, the relevant part of which has been given at page 4 of Ex. M/8 which runs as under :—

"If the employees strike work even for a portion of the working day their salary for the whole day can be deducted because the 'day' is a unit of contract of employment."

Either way whether the absenteeism of the workmen concerned for the said period was strike or not the Manager has rightly exercised his powers and he has treated them on leave without pay.

10. Judicial notice can be taken of the fact that in Government Office and Undertakings the employees are found loitering at the Pan Shop or the Canteen along with customers or otherwise and it is a matter of common experience that they are not found on their table. It is also needless to point out that the banking concern is an important industry and unauthorised absence of the Cashiers would certainly amount to jeopardizing the work. Looking to the increase insubordination and indiscipline the management has rightly treated them on leave without pay. They are therefore not entitled to any relief. I dispose of the reference with the observation that the period of their absence on 19-8-85 shall not be treated as break in service.

11. Reference is accordingly answered. No order as to costs.

V. N. SHUKLA, Presiding Officer

[No. L-12012/236/85-D.II (A)]

का.प्रा. 2972-...औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाकोशल औद्योगिक समीक्षा के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण व श्रम न्यायालय, जबलपुर के पंचदश को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-11-91 को प्राप्त हुआ था।

S.O. 2972.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mahakaushal Kshetriya Gramin Bank and their workmen, which was received by the Central Government on 7-11-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(111)/1990

PARTIES :

Employers in relation to the management of Kshetriya Gramin Bank, Head Office, 164, Shivaji Ward, Civil Lines, Narsinghpur-487001.

AND

Their workman, Shri Ved Singh Jat, C/o Shri P. N. Sharma, 551, Gorakhpur, Jabalpur-482001.

APPEARANCES :

For Workman—Shri P. N. Sharma.

For Management—None.

INDUSTRY : Banking DISTRICT : Narsinghpur (MP)

AWARD

Dated, the 11th October, 1991

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12011/80/89-IR (B) dated 18-4-1990, for adjudication of the following dispute :—

“Whether the action of the management of Mahakaushal Kshetriya Gramin Bank, Narsinghpur (MP) in terminating the services of Shri Ved Singh Jat, Ex-Clerk w.e.f. 16-10-1988 was justified? If not, to what relief the workman concerned is entitled?”

2. Facts leading to this case are that the workman concerned, Shri Ved Singh Jat, was employed in the Kshetriya Bank at Narsinghpur as a Clerk during the year 1987-88.

3. According to the workman his appointment was made against permanent vacancy. He served with the Bank at Head Office in Narsinghpur as a Clerk with effect from 1-6-87 to 15-10-1988. His services were wrongly terminated w.e.f. 16-10-1988 without any prior notice, wages in lieu of notice and retrenchment compensation. Thus he worked for a period more than 240 days continuous service as defined in Section 25-B of the I. D. Act, 1947 and the Bank management has violated the provisions of Section 25-F of the I. D. Act.

4. The workman was a full time worker. He was entitled to full time scale wages as per Central Government guidelines wages for Sundays and holidays in terms of provisions of Shops and Establishment Act and other legal provisions. The Bank is guilty of violating the mandatory provisions which amounts to unfair labour practices. The workman is therefore entitled to reinstatement with full back wages and all ancillary benefits like seniority, graded increments and other entitlements with costs of the proceedings.

5. The workman in his rejoinder further stated that after his wrongful termination the Bank gave appointment to more than 20 persons on permanent basis. Therefore the Bank management is also guilty of violating the provisions of Sections 25-G and 25-H of the I. D. Act.

6. The management after filing its statement of claim did not attend the proceedings on various dates. Only on 10-7-1990 Shri Chandurkar, Advocate, appeared for the

management who was prohibited on being objected to by the representative of the workman.

7. The management in its statement of claim says that the concerned workman was engaged during the year 1987-88 purely on daily wage basis for a temporary period. Since he was engaged purely on Daily Wage basis for a specified period to perform the Clerical nature of work and therefore he was not engaged against any clear vacancy.

8. The management has to follow various instructions and guidelines issued by the Government of India, Reserve Bank of India, National Bank and the Sponsor Bank. Since December, 1985 no Bank can recruit any clerical staff directly on their own. The recruitment of Clerks is made through advertisement, thereafter written examinations and interviews are held and the list of selected candidates is prepared. This procedure was not followed while engaging the workman concerned purely on daily wages. It is contended that the workman was never engaged against any clear vacancy. Thus because of the temporary and casual requirement, the services of the concerned workman were utilised by the Bank and such an utilisation and status of an employee thereby shall not confer any right to hold the post. The management has not violated the provisions of Sections 25-F, 25-G and 25-H of the I. D. Act as the aforesaid provisions are not applicable in the case of the workman concerned. The management's action in terminating the services of the workman is therefore justified and he is not entitled to any relief.

9. Reference was the issue in this case. The case was fixed for evidence of parties. As already stated above the management did not participate in the proceedings and the case therefore proceeded ex-parte against management on 3-10-1991.

10. The workman concerned, Shri Ved Singh Jat, filed and sworn affidavit before this Tribunal. The workman has solemnly affirmed that he was employed as Clerk in Narsinghpur head Office of the Mahakaushal Kshetriya Gramin Bank on 1-6-1987 and continued to work till 15-10-1988. His services were terminated w.e.f. 16-10-1988 without any enquiry, prior notice or wages in lieu of notice and without any retrenchment compensation. His appointment was made against permanent vacancy. After his termination 12 persons in Clerical Cadre were employed by the Bank and they still continue in service. Names and dates of their appointment are as under :—

S. No.	Name	When employed
1.	Nand Kishore	14-10-1988
2.	Janendra Jetwa	15-10-1988
3.	Sidarath Uike	15-10-1988
4.	Rajesh Ekka	31-10-1988
5.	R. Murli	28-10-1988
6.	Jai Shanker Iyer	3-11-1988
7.	Mitendra Jharia	27-10-1988
8.	Ku. Sharda Singh	10-3-1989
9.	Ku. Sadhna Verma	14-3-1989
10.	Ku. Manisha	13-3-1988
11.	Onkar Jharia	16-3-1989
12.	Ku. Tulika	27-4-1989

The workman has further solemnly affirmed that he is now where gainfully employed since the date of his termination. Therefore he is entitled to reinstatement with full back wages.

11. From the pleadings of the parties and the uncorroborated evidence of workman on affidavit it is amply proved that the workman was employed by the Bank during the year 1987-88. It is admitted by the management that prior to his termination no notice, pay in lieu of notice or retrenchment compensation was paid by the management.

12. The workman in his affidavit filed in support of his case has stated that he served in Narsinghpur Head Office of the Bank as Clerk from 1-6-1987 and continued till 15-10-1988. After his termination the Bank employed 12 persons and they still continue in service. Obviously it goes without saying that the workman had completed more than 240 days continuous service and after his termination num-

ber of persons were employed. No notice was given or compensation paid to the workman in accordance with Section 25-F of the I. D. Act. Thus the management has violated the provisions of Sections 25-G, 25-H and 25-F of the I. D. Act. Thus the termination of the services of the workman is void ab initio and is liable to be quashed under the law of the land. See—

- (1) State Bank of India Vs. N. Sundermoney 1976-I-LJ 476.
- (2) Santosh Gupta Vs. State Bank of Patiala AIR 180 (SC) page 1219.
- (3) L. Robert D'Souza Vs. Executive Engineer, Southern Railway 1982 LIC p. 811.

13. The workman concerned Shri Ved Singh Jat is accordingly entitled to reinstatement with full back wages and all consequential benefits with continuity in service. Reference is accordingly answered as under :—

The action of the management of Mahakaushal Kshetriya Gramin Bank Narsinghpur (MP) in terminating the services of Shri Ved Singh Jat, Ex-Clerk w.e.f. 16-10-1988 was not justified. He is entitled to reinstatement with full back wages and all the consequential benefits with continuity in service. No order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-12011/80/89-IR (B-I)]

S. C. SHARMA, Desk Officer

नई दिल्ली, 7 नवम्बर, 1991

का.प्र. 2973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुवर्ण में, केन्द्रीय सरकार द्वारा कोयले आदि के कामकाज के क्षेत्र में केन्द्रित औद्योगिक विवादों में केन्द्रीय सरकार को विशेष प्राधिकार के अन्तर्गत प्रकाशित करने हैं, जो केन्द्रीय सरकार को 4-11-91 को प्राप्त हुआ था।

New Delhi, the 7th November, 1991

S.O. 2973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the Tara Colliery of M/s. E.C.L. and their workmen, which was received by the Central Government on the 4-11-91.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 35 of 1988

PARTIES :

Employers in relation to the management of Tara Colliery of M/s. E.C. Ltd. PO Panuria (Burdwan).

AND

Their workmen

PRESENT :

Mr. Justice Manash Nath Roy, Presiding Officer.

APPEARANCES :

On behalf of management Mr. B. N. Lala, Advocate.

On behalf of workmen None.

STATE : West Bengal

INDUSTRY : Coal

AWARD

On the basis of the dispute which is pending before this Tribunal in terms of the order of reference No. L-19012 (114)/86-D.IV(B) dated 20th April, 1987, issued by the Government of India, Ministry of Labour, today the parties have filed the terms of settlement and have also requested to pass an award in terms thereof.

2. Since the terms were agreed upon by the parties, I make an award in terms of the said settlement. Copy of the settlement form part of this award as Annexure-A.
Dated, Calcutta, the 28th October, 1991.

MANASH NATH ROY, Presiding Officer

[No. L-19012(114)/86 D.IV(B)]

RAJA LAL, Desk Officer

ANNEXURE-A

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, CALCUTTA

Ref. No. 35/1988

PARTIES :

Employers in relation to the management of Tara Colliery of E.C.L.

AND

Their workmen

Joint petition of compromise

Both the above named parties most respectfully submit as under :—

1. That the above matter is pending before the Hon'ble Tribunal and the matter has not yet been heard.

2. That, in the meantime, both the parties mutually negotiated on the instant matter and have come to an amicable settlement on the following terms.

Terms of settlement

(a) That the management agrees to give an appointment letter to Sri Dilip Karmakar as P/Rated Tub Repair within fifteen days from the date of the settlement.

(b) That the union agrees not to pursue the cases of other two workers namely Sri Saktipada Karmakar and Sri Dwijapada Karmakar as named in the order of reference and further agrees that there shall be no claim whatsoever in respect of these two workmen.

(c) The union agrees that there shall be no claim for any back wages whatsoever for any back period in respect of Sri Dilip Karmakar, stated in para (a) above.

(d) That by this settlement the instant matter and any matter arising out of the instant order of reference stands fully and finally settled.

(e) That this settlement will be effective as from the date, the Hon'ble tribunal accepts the settlement and process the award in terms thereof.

3. Both the parties pray that the Hon'ble Tribunal may be pleased to accept the settlement as fair & proper and may be further pleased to pass an award in terms of this settlement.

And

for this act kindness both the parties as in duty bound, shall ever pray. Dated the 23rd September, 1991.

For and on behalf of the workmen

Sd/-

It. Secretary.

Colliery Mazdoor Congress

For and on behalf of
Employer

(Md. Salim)

Agent.

Tara (R) Colliery,

E.C.L.

नई दिल्ली, 8 नवम्बर, 1991

का.प्र. 2674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबंध में निम्नलिखित विवाद में औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-91 को प्राप्त हुआ था।

New Delhi, the 8th November, 1991

S.O. 2974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway and their workmen, which was received by the Central Government on 6-11-91.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 81/9/84, 81/10/84/81/13/84, 81/24/84, 81/31/84, 81/37/84, 81/40/84, एवं 81/42/84

केन्द्र सरकार/श्रम मंत्रालय की अधिसूचना संख्या:

एल. 41011(22)/82 डी. II(बी) वि. 27-11-84

जनरल सेक्रेटरी, रेलवे केजुप्रल लेबर यूनियन, डागा हाई स्कूल के पास, बीकानेर।

बनाम

डिविजनल रेलवे मैनेजर, नोर्दन रेलवे, बीकानेर, डिविजन, बीकानेर।

उपस्थिति

माननीय न्यायाधीश श्री जगत सिंह, आर. एच. जे. एस.

यूनियन की ओर से: श्री भरतसिंह सेंगर एवं

श्री धरविन्द सिंह सेंगर

नियोजक की ओर से: श्री लालचंद मेहरा

दिनांक अर्थात्: 5-7-91

अर्थात्

केन्द्र सरकार ने निम्नलिखित विवाद इस न्यायाधिकरण की अधिनियम हेतु अपनी अधिसूचना सं. एल. 41011(22)/82 डी. II(बी) दिनांक 27-11-84 के द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10(1)(घ) के अंतर्गत प्रेषित किया है—

“Whether the action of the Northern Railway Administration Bikaner Division, Bikaner in terminating the services of following 43 casual workmen without following the procedure as laid down in the Industrial Disputes Act is Justified? If not, to what relief those workmen are entitled?”

2. रेलवे केजुप्रल लेबर यूनियन, बीकानेर, जिसे तत्पश्चात् प्राथी संघ सम्बोधित किया गया है, के द्वारा विवाद उठाने पर यह निर्णय इस न्यायालय में न्याय निर्णयार्थ उठाया गया है, जिसके संलग्न 42 श्रमिकों की सूची है, जिनकी सेवा मुक्ति अप्राथी नियोजक द्वारा औद्योगिक विवाद अधिनियम 1947 के प्रावधानों के विपरीत की गई है।

3. चूंकि निर्देश 42 व्यक्तियों से संबंधित था इसलिए मुद्धार के लिए तत्कालीन पीठासीन अधिकारी ने प्रत्येक श्रमिक के लिए अलग-अलग पत्रावली कायम की और प्रत्येक पत्रावली पर नया नं. 81/84 डालते हुए 81 नम्बर के नीचे उपनम्बर डाला गया है।

4. प्रत्येक श्रमिक की तरफ से प्राथी संघ ने अलग से क्लेम प्रस्तुत किया है और अप्राथी नियोजक ने भी अलग से क्लेम का प्रति उत्तर प्रस्तुत किया 3034 GI/91—12

है तथा पक्षकारों ने प्रत्येक श्रमिक के लिए अलग-अलग प्रलेखिक या मौखिक साक्ष्य प्रस्तुत की है। उपरोक्त 42 श्रमिकों की पत्रावलियों में कुछ श्रमिकों की प्रलेखिक या मौखिक साक्ष्य प्रस्तुत हो चुकी है इसलिए पक्षकारों की बहुसंख्य मुद्दों के उपरांत उन्हीं को निपटारा किया जा रहा है। इन परिस्थितियों में मैं प्रत्येक पत्रावली का पृथक से निम्न प्रकार निर्णय दे रहा हूँ—

(I) केस नं. सी. आई. टी. 81/9/84 (श्रमिक कजोड़) :

5. प्राथी संघ ने जरिये क्लेम प्रकट किया है कि श्रमिक कजोड़ की नियुक्ति सहायक अभियंता, सूरतगढ़ द्वारा खल्लासी बेलवार के पद पर दिनांक 1-8-79 को दी गई थी जहां पर उसने एक कलेंडर वर्ष में 240 दिवस की सेवा पूरी करली थी फिर भी उसे धारा-25एफ का लाभ दिये बिना सेवा मुक्त कर दिया इसलिए सेवा मुक्ति आदेश अपास्त किया जाय और कजोड़ को उक्त पद पर नियोजित घोषित करने हुए उसको वेतन व सभी लाभ दिलाये जायें।

6. अप्राथी नियोजक ने श्रमिक के कथनों को अस्वीकार किया और कहा है कि उसने 240 दिवस की सेवा पूरी नहीं की इसलिए धारा 25एफ के प्रावधान लागू नहीं हैं। यह भी कहा है कि टी. एच. ए. समाप्त होने पर श्रमिक की सेवायें स्वतः समाप्त हो गई जो छंटनी की परिभाषा में नहीं आती है।

7. किसी भी पक्षकार ने मौखिक साक्ष्य प्रस्तुत नहीं की है। प्रलेखिक साक्ष्य में नियोजक की तरफ से श्रमिक की सेवा अवधि का चार्ट प्रस्तुत किया गया है जो सहायक अभियंता, सूरतगढ़ के कार्यालय की सील मोहर तथा उक्त अधिकारी के हस्ताक्षरयुक्त है। जिसके अनुसार उस श्रमिक ने दिनांक 3-8-79 से 3-8-80 तक 264 दिवस सेवा पूरी करली थी तथा निम्नलिखित रूप से इस श्रमिक को धारा-25 (एफ) का लाभ नहीं दिया गया है इसलिए इसकी सेवा अपास्त की जाती है और इसे खल्लासी बेलवार के पद पर नियोजित करते हुए उक्त पद का वेतन व अन्य सभी लाभ दिनांक 3-8-80 से दिलाये जाते हैं।

II. केस नं. सी. आई. टी. 81/10/84 (श्रमिक आंदोलन) :

8. प्राथी संघ ने जरिये क्लेम प्रकट किया कि श्रमिक छोटू लाल की प्रथम नियुक्ति दिनांक 1-8-79 को गैरमैन खल्लासी के पद पर रेल पथ निरीक्षण, सूरतगढ़ में हुई थी जहां से उसे दिनांक 3-8-80 को सेवा मुक्ति कर दिया। संघ का कहना है कि श्रमिक ने सेवा मुक्ति के पूर्व एक कलेंडर वर्ष में 240 दिवस से अधिक सेवा पूरी करली थी फिर भी उसे धारा 25(एफ) के प्रावधानों का लाभ नहीं दिया इसलिए सेवा मुक्ति आदेश अपास्त किया जाये और गैरमैन के पद पर नियोजित घोषित करते हुए उक्त पद का वेतन व अन्य सभी लाभ दिलाये जायें।

9. नियोजक के जरिये प्रतिउत्तर श्रमिक के कथनों को अस्वीकार किया है। कहा है कि टी. एच. ए. समाप्त होने पर दिनांक 3-8-80 को श्रमिक की सेवायें स्वतः समाप्त हो गई उसकी छंटनी नहीं की गई तथा श्रमिक ने एक कलेंडर वर्ष में 240 दिवस या इससे अधिक सेवा नहीं की इसलिए धारा 25(एफ) लागू नहीं होती।

10. अपने कथनों के समर्थन में श्रमिक छोटू लाल ने स्वयं का शपथ पत्र प्रस्तुत किया है जिससे नियोजक प्रतिनिधि ने जिरह की है इसके विपरीत नियोजक की तरफ से कोई साक्ष्य पेश नहीं हुई तत्पश्चात् मैंने पत्रावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तार पूर्वक सुना।

11. श्रमिक के शपथ पत्र से उसके कथनों की पुष्टि होती है। नियोजक पक्ष की तरफ से भी श्रमिक की सेवा अवधि बाबत जो चार्ट प्रस्तुत हुआ है उसके अनुसार 3-8-79 से 3-8-80 तक इस श्रमिक ने 317 दिवस की सेवा पूरी करली थी इसलिए धारा 25(एफ) का लाभ दिये बिना श्रमिक की सेवा मुक्ति अनुचित एवं अवैध थी, जिसे अपास्त किया जाता है और श्रमिक को गैरमैन के पद पर नियोजित घोषित किया जाता है उसे उक्त पद का वेतन व अन्य सभी लाभ दिनांक 3-8-80 से दिलाये जाते हैं।

III केस नं. सी. आई. टी. 81/13/84 (श्रमिक आदिश्वर हुसैन) :

12. प्रार्थी संघ का कहना है कि श्रमिक की प्रथम नियुक्ति 24-7-77 को सहायक अभियंता, बीकानेर द्वारा खल्लासी बेलदार के पद पर की गई थी और दिनांक 14-7-80 को उसे सेवा मुक्त कर दिया। श्रमिक का कहना है कि हालांकि उसने एक कलेण्डर वर्ष में 240 दिवस की सेवा अवधि पूरी कर ली थी लेकिन फिर भी उसे धारा 25(एफ), के प्रावधानों का लाभ नहीं दिया इसलिए सेवा मुक्ति प्रादेश प्रपास्त किया जाये और उसे खल्लासी बेलदार के पद पर नियोजित मानते हुए उक्त पद का वेतन व अन्य सभी लाभ दिलाये जायें।

13. नियोजक ने जरिये, प्रति उत्तर श्रमिकों के कथनों को प्रस्वीकार किया है और कहा है कि श्रमिक ने दिनांक 24-7-80 से पूर्व कुल 97 दिवस पूरे किये हैं और यह किसी लाभ का अधिकारी नहीं। यह भी कहा है कि टी. एल. ए. समाप्त होने पर स्वतः ही उसकी सेवा मुक्ति हो गई।

14. अनेकों अवसर देने पर भी श्रमिकों ने मौखिक साक्ष्य पेश नहीं की फलस्वरूप उसकी साक्ष्य समाप्त करनी पड़ी। नियोजक पक्ष ने भी साक्ष्य पेश करने नहीं चाही। तत्पश्चात् मैंने पञ्चावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तारपूर्वक सुना। हालांकि नियोजक ने क्लेम के प्रतिउत्तर में तो कहा है कि श्रमिक ने 240 दिवस सेवा नहीं की परन्तु नियोजक की तरफ से सहायक अभियंता का एक चार्ट पेश किया गया है जिसमें मासिक दुसरे द्वारा दिनांक 14-7-79 से 14-7-80 तक 265 दिवस की सेवा करना साबित है। निर्विवाद रूप से नियोजक ने धारा 25 (एफ) की पालना नहीं की है इसलिए सेवा मुक्ति प्रादेश प्रपास्त किया जाता है और श्रमिक को खल्लासी बेलदार के पद पर नियोजित घोषित किया जाता है तथा उसे उक्त पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं।

IV केस नं. सी. आई. टी. 81/24/84 (श्रमिक कानाराम) :

15. प्रार्थी संघ ने जरिये क्लेम प्रकट किया कि कानाराम श्रमिक की नियुक्ति सहायक अभियंता सूरतगढ़ ने खल्लासी के पद पर दिनांक 15-1-79 को की थी जहाँ पर उसने एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी उसे धारा 25 (एफ) का लाभ दिये बिना सेवा मुक्त कर दिया इसलिए सेवा मुक्ति प्रादेश प्रपास्त किया जाये और श्रमिक को खल्लासी बेलदार के पद पर नियोजित घोषित करते हुए सेवा मुक्ति की दिनांक से ही उक्त पद का वेतन व अन्य सभी लाभ दिलाये जायें।

16. प्रार्थी नियोजक ने श्रमिक के कथनों को प्रस्वीकार किया है और कहा है कि श्रमिक ने 240 दिवस लगातार सेवा पूरी नहीं की इसलिए धारा 25 (एफ) के लाभ का अधिकारी नहीं है। यह भी कहा था कि टी. एल. ए. समाप्त होने पर श्रमिक की सेवायें स्वतः ही समाप्त हो गई इसलिए तथाकथित सेवा मुक्ति छंटनी की परिभाषा में नहीं आती है।

17. किसी भी पक्षकार ने मौखिक साक्ष्य प्रस्तुत नहीं की है, प्रलेखित साक्ष्य में श्रमिक की तरफ से सेवा अवधि का जो चार्ट पेश किया गया है वह नियोजक के किसी अधिकारी का हस्ताक्षरयुक्त नहीं है न ही इसे साबित किया गया है, इसलिए साक्ष्य के अभाव में श्रमिक के कथन साबित नहीं माने जा सकते और यह श्रमिक किसी भी लाभ का अधिकारी नहीं है।

(V) केस नं. सी. आई. टी. 81/31/84 (श्रमिक धन्ताराम) :

18. प्रार्थी संघ ने जरिये क्लेम प्रकट किया कि धन्ताराम की नियुक्ति दिनांक 2-8-79 को सहायक अभियंता सूरतगढ़ द्वारा बेलदार के पद पर की गई थी, जहाँ पर उसने एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी उसे धारा 25 (एफ) का लाभ दिये बिना सेवा मुक्त किया गया। प्रार्थी संघ का कहना है कि सेवा मुक्ति प्रादेश प्रपास्त किया जाये और उसे खल्लासी बेलदार के पद पर नियोजित घोषित किया जाये और उसे उक्त पद का वेतन व लाभ दिलाये जायें।

19. नियोजक ने जरिये प्रतिउत्तर प्रार्थी के कथनों को प्रस्वीकार किया और कहा कि श्रमिक ने 240 दिवस कार्य नहीं किया। इसकी नियुक्ति टी. एल. ए. पर की गई थी जिसके समाप्त होने पर स्वतः उसकी सेवा मुक्त हो गई थी।

20. अनेकों अवसर देने पर भी श्रमिक ने न तो अपना परीक्षण कराया और न ही प्रलेखित साक्ष्य पेश की फलस्वरूप श्रमिक की माध्य बंद करनी पड़ी। नियोजक पक्ष ने भी मौखिक साक्ष्य पेश नहीं की तत्पश्चात् मैंने पञ्चावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तार पूर्वक सुना।

21. नियोजक की तरफ से श्रमिक से संबंधित सेवा अवधि चार्ट पेश किया गया है, जिसके अनुसार 4-7-79 से दिनांक 5-7-80 तक श्रमिक ने 331 दिन की सेवा अवधि पूर्ण कर ली है, जिसे नियोजक प्रतिनिधि ने भी स्वीकार किया है। इन परिस्थितियों में श्रमिक को धारा 25 एफ के विपरीत सेवा मुक्ति नहीं की जा सकती थी, चाहे टी. एल. ए. ही समाप्त हो गया हो। नियोजक से अपेक्षा थी कि वह इन श्रमिकों को धारा 25 एफ का लाभ देकर (जिन्होंने एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी) को सेवा मुक्त करता लेकिन ऐसा नहीं किया, अतः सेवा मुक्ति प्रादेश प्रपास्त किया जाता है और श्रमिक धन्ताराम को 3-8-83 से ही खल्लासी बेलदार के पद पर नियोजित घोषित किया जाता है। इसी दिनांक से उसे उक्त पद का वेतन व अन्य सभी लाभ दिलाए जाते हैं।

VI. केस नं. सी. आई. टी. 81/37/84 (श्रमिक बाबूलाल)

22. प्रार्थी संघ ने जरिए क्लेम प्रकट किया कि श्रमिक बाबूलाल की प्रथम नियुक्ति दिनांक 18-9-76 को रेल पथ निरीक्षक, सूरतगढ़ ने गैंगमैन के पद पर की थी और उसे दिनांक 2-10-80 को सेवा मुक्त कर दिया। संघ का यह भी कहना है कि सेवा मुक्ति से पूर्व श्रमिक ने एक कलेण्डर वर्ष में 240 दिवस की सेवा पूरी कर ली थी किन्तु धारा 25 एफ का लाभ नहीं दिया इसलिए सेवा मुक्ति प्रादेश प्रपास्त किया जाए और गैंगमैन के पद पर नियोजित घोषित करते हुए उसे वेतन व लाभ दिलाए जायें।

23. नियोजक ने जरिए प्रति उत्तर श्रमिक के कथनों को प्रस्वीकार किया और कहा कि एक कलेण्डर वर्ष में 240 दिवस सेवा पूरी नहीं की है तथा टी. एल. ए. समाप्त होने पर श्रमिक की सेवायें स्वतः समाप्त हो गई हैं जो छंटनी की परिभाषा में नहीं आती।

24. अपने कथनों के समर्थन में श्रमिक बाबूलाल ने स्वयं का शपथ पत्र प्रस्तुत कर सत्यापित कराया जिससे नियोजक प्रतिनिधि ने जिरह की। इसके विपरीत नियोजक की तरफ से साक्ष्य पेश नहीं हुई है तत्पश्चात् मैंने पञ्चावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तार पूर्वक सुना। श्रमिक के शपथ पत्र से उसके कथनों की पुष्टि हो जाती है तथा नियोजक पक्ष ने श्रमिक की सेवा अवधि बाबत जो चार्ट पेश किया है उससे भी दिनांक 3-12-79 से 3-12-80 तक श्रमिक द्वारा 267 दिवस सेवा करना साबित हो जाता है, इसलिए सेवा मुक्ति प्रादेश प्रपास्त किया जाता है क्योंकि वह धारा 25 (एफ) के विपरीत किया गया है और श्रमिक को गैंगमैन के पद पर नियोजित घोषित किया जाता है उक्त पद का वेतन व अन्य सभी लाभ दिनांक 3-12-80 से दिलाए जाते हैं।

VII. केस नं. सी. आई. टी. 81/40/84 (श्रमिक बकील मिया)

24. प्रार्थी संघ ने प्रकट किया कि बकीलमिया का प्रथम नियुक्ति दिनांक 30-1-78 को गैंगमैन के पद पर सहायक अभियंता, सूरतगढ़ हुई थी और उसे 3-12-80 को सेवा मुक्त कर दिया। श्रमिक ने एक कलेण्डर वर्ष में 240 दिवस की सेवा पूरी कर ली थी किन्तु उसे धारा 25 एफ का लाभ नहीं दिया इसलिए उसे सेवा मुक्ति प्रादेश प्रपास्त किया जाए और श्रमिक को गैंगमैन के पद पर नियोजित घोषित करते हुए उक्त पद का वेतन व सभी लाभ दिलाए जायें।

25. नियोजक ने जरिए प्रतिउत्तर श्रमिक के कथनों को अस्वीकार किया है और कहा कि दिनांक 3-12-80 को टी. एल. ए. समाप्त होने पर श्रमिक की सेवा समाप्त स्वात. हो गई उसकी छटनी नहीं की गई तथा श्रमिक ने 12 कलेण्डर महीनों में 240 दिवस या उससे अधिक सेवा नहीं की इस लिए धारा 25 एफ लागू नहीं होती और वह किसी सहायता का अधिकारी नहीं है।

26. अपने कथनों के समर्थन में श्रमिक वकील मियाँ ने स्वयं का शपथ पत्र पेश किया जिससे नियोजक प्रतिनिधि ने जिरह की। इसके विपरीत नियोजक की तरफ से कोई साक्ष्य पेश नहीं हुई, तत्पश्चात् मैंने पत्रावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तार-पूर्वक सुना।

27. श्रमिक के शपथ पत्र से उसके कथनों की पुष्टि हो जाती है तथा नियोजक ने भी श्रमिक की सेवा अवधि बाबत जो चार्ट पेश किया है उसके अनुसार भी 3-12-79 से 3-12-80 तक इस श्रमिक ने 243 दिवस की सेवा अवधि पूरी कर ली थी इसलिए नियोजक ने धारा 25 (एफ) के विपरीत सेवा मुक्ति की है जो अस्वीकार की जाती है और श्रमिक को रीगमैन के पद पर नियोजित घोषित किया जाता है तथा उक्त पद का वेतन व अन्य सभी लाभ विलाने जाते हैं।

VIII. केस नं. सी.आई.टी. 81/42/84 (श्रमिक सोहन)

27. प्रार्थी संघ का कहना है कि श्रमिक सोहन की प्रथम नियुक्ति रेल पथ निरीक्षक सूरतगढ़ द्वारा 15-4-74 को रीगमैन के पद पर की गई थी और 12 महीने में 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी उसे दिनांक 3-12-80 को सेवा मुक्त कर दिया गया तथा धारा 25 एफ के प्रावधानों का लाभ नहीं दिया इसलिए सेवा मुक्ति आदेश अस्वीकार किया जाये और श्रमिक को रीगमैन के पद पर नियोजित घोषित करने हुए उक्त पद का वेतन व अन्य सभी लाभ विलाने जायें।

28. नियोजक ने जरिये प्रति उत्तर श्रमिक के कथनों को अस्वीकार किया और कहा है कि श्रमिक ने एक वर्ष में 240 दिवस कार्य नहीं किया, इसलिए सेवा मुक्ति छटनी की परिभाषा में नहीं आती और धारा 25 एफ के प्रावधान लागू नहीं होते। यह भी कहा है कि टी.एल.ए. समाप्त हो गई इसलिए छटनी की परिभाषा में नहीं आती।

29. अपने कथनों के समर्थन में श्रमिक सोहन ने स्वयं का शपथ-पत्र प्रस्तुत कर सत्यापित कराया जिसमें नियोजक प्रतिनिधि ने जिरह भी की है। इसके विपरीत नियोजक की तरफ से अपने कथनों पर भी कोई साक्ष्य पेश नहीं हुई बल्कि नियोजक ने श्रमिक की सेवा अवधि बाबत चार्ट पेश किया है। तत्पश्चात् मैंने पत्रावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तार पूर्वक सुना। अपने कथनों की पुष्टि श्रमिक ने स्वयं के शपथ पत्र से की है और नियोजक की तरफ से जो सेवा अवधि का चार्ट पेश किया गया है उसके अनुसार भी दिनांक 3-12-79 से 3-12-80 तक श्रमिक ने 256 दिवस की सेवा अवधि पूरी कर ली थी इसलिए धारा 25 एफ की पा ना किये बिना इसकी सेवा मुक्ति अनुचित है जो अस्वीकार की जाती है और श्रमिक को रीगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे दिनांक 3-12-80 से रीगमैन के पद का वेतन व अन्य सभी लाभ विलाने जाते हैं।

30. नियोजक को यह भी आदेश है कि उक्त समस्त केसों में संबंधित श्रमिकों ने अगर सेवा मुक्ति अवधि में अवकाश कहीं सेवा कर लाभ अर्जित किया हो नियोजक उस अवधि का वेतन काट सकता है। सभी श्रमिकों की सेवाये निरन्तर मानी जायेंगी एवं श्रमिकों को मिलने वाली राशि तीन माह के अन्तर में नहीं की गई तो नियोजक उक्त मिलने वाली राशि पर 12 प्रतिशत प्रतिवर्ष की दर से ब्याज भी अदा करेगा एवं प्रत्येक केस में श्रमिकों को 100-100 रुपये खर्चा मुक्तदम विलाना जाता है। उक्त आदेश का पंचाट पारित किया जाता है जिसे बास्ते प्रकाशन केन्द्र सरकार को अंतर्गत धारा 17 (1) अधिनियम भेजा जाये।

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 81/29/1984.

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या :

एल. 41011 (22)-82-बी-11(बी) दिनांक 24-11-84

नबी बक्श पुत्र ही रेखा मार्फत (केजुप्रल पैबर यूनियन जरिये भरत सिंह सैगर महामंत्री, डामा स्कूल के पाम, श्रीकानेर एवं

बनाम

महाप्रबंधक, नोर्दन रेलवे मुख्यालय, बड़ौदा हाउस नई दिल्ली
अन्य।

उपस्थिति

माननीय न्यायाधीश श्री जगत सिंह, आर.एच.जे.एस.
श्रमिक यूनियन की ओर से श्री भरत सिंह सैगर एवं
श्री भरविन्द सिंह सैगर

नियोजक की ओर से : श्री एस.मो. मेहरा
दिनांक अर्वाह : 7-5-91

अर्वाह

भारत सरकार के आदेश सं.एस. 41011 (22)-82-बी-II-(बी) दिनांक 24-11-1984 द्वारा 42 श्रमिकों बाबत यह रिकॉर्ड प्राप्त हुआ था और तत्कालीन पीठासीन अधिकारी ने प्रत्येक रिकॉर्ड के लिए पूर्वक से कार्यवाही प्रारम्भ की थी। इस प्रकार इस रिकॉर्ड में अलग से 42 पत्रावलियों को भी गई थी जिनमें से अलग-अलग केस पेश हुए। केस के प्रति उत्तर तथा पक्षकारों की साक्ष्य भी अलग ली गई थी।

2. यह पत्रावली नबी बक्श श्रमिक से संबंधित है जिसकी नियुक्ति दिनांक 15-6-77 को रीगमैन के पद पर रेलवे निरीक्षक श्रीकानेर के यहाँ की गई थी और जिसने एक वर्ष में 240 दिवस की सेवा पूरी कर ली इसलिए वह औद्योगिक कर्मचारी हो गया था तथा 200-250 का वेतनमान प्राप्त कर रहा था कि अचानक 30-10-80 को उसकी सेवा मुक्ति कर दी गई। प्रार्थी संघ का कहना है कि सेवा मुक्ति करने से पूर्व न तो वरिष्ठता सूची बनाई गई थी और न ही धारा 25 (एफ) के प्रावधानों का नाम दिया गया। सेवा मुक्ति के समय इस श्रमिक से कनिष्ठ व्यक्ति भी कार्यरत थे और सेवा मुक्ति के उपरान्त नये श्रमिक भी नियोजित किये गए हैं इस प्रकार नियोजक ने धारा 25 एफ, 25 जी एवं 25 एच के प्रावधानों का उल्लंघन किया है और प्रार्थना की गई है कि सेवा मुक्ति आदेश अस्वीकार किया जाये और श्रमिक नबी बक्श को रीगमैन के पद पर नियोजित घोषित करने हुए उक्त पद का वेतन व अन्य सभी लाभ विलाने जायें।

3. अप्रार्थी नियोजक ने जरिये प्रति उत्तर कहा कि दिनांक 31-10-80 के पूर्व 12 मास में नबी बक्श ने 240 दिवस कार्य नहीं किया इसलिए धारा 25 (एफ) के लाभ का अधिकारी नहीं है। टी.एल.ए. समाप्त होने पर उसे सेवा मुक्त किया गया था जो छटनी की परिभाषा में नहीं आता है। नियोजक के अनुसार वरिष्ठता सूची बनाना आवश्यक नहीं था इसलिए धारा 25 (एफ) 25 (जी) एवं 25 (एच) की अवहेलना नहीं होती है।

4. अपने कथनों के समर्थन में नबी बक्श ने स्वयं का शपथ पत्र प्रस्तुत कर सत्यापन कराया जिसमें नियोजक प्रतिनिधि ने जिरह की है और प्रत्येक साक्ष्य में सेवा अवधि का चार्ट प्रस्तुत किया। इसके विपरीत नियोजक की तरफ से किसी प्रकार की साक्ष्य पेश नहीं हुई है। हालांकि उन्हे साक्ष्य के लिए अपने कथनों पर बयान दिये गये थे। श्रमिक नबी बक्श ने अपने शपथ पत्र द्वारा भी अपने कथनों को ताबित किया है और कहा है कि उसे 15-6-77 को रीगमैन के पद पर नियोजित किया था और 31-10-80 को अनुचित एवं अनधिकृत रूप से सेवा मुक्त किया था।

श्रमिक का कहना है कि सेवा मुक्ति के रोज बहू 240 दिन से अधिक सेवा पूरी कर चुका था फिर भी न तो बरिष्ठता सूची बनाई गई और न ही धारा 25 (एफ) का लाभ दिया गया। इस सक्षी से नियोजक द्वारा प्रतिपरीक्षा की गई है और यह प्रतिपरीक्षा की कसौटी पर खरा उतरा है। नियोजक की तरफ से जो सेवा अवधि का चार्ट प्रस्तुत किया गया है उसमें क्रमांक सं. 32 पर इस कर्मचारी का नाम दर्ज है जिसमें 31-10-79 से 31-10-80 तक 312 दिवस की सेवा अवधि पूरी की थी। इसलिए धारा 25 (एफ) की पालना किये बिना इसकी सेवा मुक्ति अनुचित एवं अवैध है।

5. निर्बिवाद रूप से नियोजक ने छंटनी से पूर्व बरिष्ठता सूची नहीं बनाई इसलिए धारा 25 (जी) की भी अवहेलना हुई है। सेवा मुक्ति के उपरांत से नियोजक ने अनेकों गैंगमैन नियुक्त किये हैं तथा इस श्रमिक को काम पर आने के लिए प्रोत्साहित नहीं किया गया इसलिए धारा 25 (एच) की भी अवहेलना हुई है और इस निर्देश का अधिनिर्णय निम्न प्रकार से किया जाता है—

6. श्रमिक नबी बक्श की 30-10-90 से सेवा मुक्ति उचित एवं वैध नहीं है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है इसकी सेवा की निरन्तरता कायम रखी जाती है और इसे 30-10-80 से ही गैंगमैन के पद के वेतन व अन्य सभी लाभ विलाने जाते हैं। अगर नियोजक इसे तीन माह में उक्त राशि भुगत नहीं करेगा तो 12 प्रतिशत प्रतिवर्ष की दर से उक्त राशि पर ब्याज भी देने का अधिकारी होगा। श्रमिक ने सेवामुक्त अवधि में अगर अन्यत्र कार्य कर लाभ अर्जित किया है तो उक्त मिलने वाली राशि में से अर्जित की गई राशि कम की जा सकती है। उक्त आशय का पंचाट पारित किया जाता है जिसे प्रकाशन हेतु केन्द्र सरकार को भेजा जावे।

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. ६१/२८/८४

केन्द्र सरकार श्रम मंत्रालय की अधिमूचना संख्या:

एल.-४१०११(२२ II-डी-२ बी. : वि. २४-११-८४

गनी पुन बली मोहम्मद मार्फत भरतसिंह सेंगर महासंघी रेलवे केजुमल लेबर यूनियन बीकानेर।

बनाम

महाप्रबन्धक, नौबत रेलवे मुख्यालय बड़ोबा हाऊस

मई दिल्ली एवं अन्य

उपस्थिति

माननीय न्यायाधीश श्री जगत सिंह धार, एच.जे.एम.

यूनिवर्स की ओर से : श्री भरत सिंह सेंगर एवं
श्री अरविन्द सिंह

नियोजक की ओर से : श्री एल.सी. सेहरा

दिनांक : प्रकाश : ७-०५-९१

प्रकाश

भारत सरकार के आदेश सं. एल.-४१०११(२२)-डी-II(बी) दिनांक २४-११-१९८४ द्वारा ४२ श्रमिकों की बाबत यह रिकॉर्ड प्राप्त हुआ था और तत्कालीन पोडासीन अधिकारी ने प्रत्येक रिकॉर्ड के लिए पृथक से कार्यवाही प्रारम्भ की थी। इस प्रकार इस रिकॉर्ड में प्रत्येक से ४२ पत्रावलियां खोली गईं जिनमें अलग-अलग क्लेस पत्र हुए। क्लेस के प्रतिउत्तर तथा पत्रकारों की सहाय्य भी प्रलग ली गई थी।

2. यह पत्रावली श्रमिक गनी से संबंधित है जिसकी नियुक्ति पो. डब्ल्यू. आई. बीकानेर गैंगमैन के पद पर २६-२-७६ को की गई थी और जिने १८० दिवस की सेवा उपरान्त २००-२५० का वेतनमान भी मिलने लग गया था परन्तु फिर भी नियोजक ने इस श्रमिक को १४-७-८० को सेवा मुक्त कर दिया। प्रार्थी संघ का कहना है कि हालांकि श्रमिक ने १४-७-८० को समाप्त हुए एक कलेंडर वर्ष में २४० दिवस से अधिक सेवा पूरी कर ली थी फिर भी सेवा मुक्ति के समय न तो बरिष्ठता सूची बनाई गई और न ही धारा २५ एक का लाभ दिया गया इस लिये सेवा मुक्ति आदेश अमान्य किया जावे।

3. नियोजक ने जरिये प्रतिउत्तर प्रकट किया कि दिनांक १४-७-८० को समाप्त हुए एक कलेंडर वर्ष में इस श्रमिक ने लगातार २४० दिवस कार्य नहीं किया था और बी.एल.ए. समाप्त होने पर इस की सेवाये समाप्त स्वतः ही समाप्त हो गई। नियोजक के अनुसार बरिष्ठता सूची बनाना आवश्यक नहीं था और न ही धारा २५ एक की पालना आवश्यक थी। श्रमिक की सेवा मुक्ति छंटनी की परिभाषा में नहीं आती है।

4. श्रमिक गनी ने अपना शपथपत्र प्रस्तुत कर स्थापित कराया जिससे नियोजक प्रतिनिधि ने जिरह की। प्रत्येक साक्ष्य में श्रमिक ने सेवा अवधि का चार्ट प्रस्तुत किया है। इसके विपरीत नियोजक की तरफ से प्रत्येक अवधि में मासिक साक्ष्य प्रस्तुत नहीं हुई है। हालांकि नियोजक को मास्य प्रस्तुत करने हेतु अनेकों अवसर दिये गये थे।

5. तत्पश्चात् मैंने पत्रावली का निरीक्षण किया और पत्रकारों के प्रतिनिधियों को विस्तार पूर्वक सुना। श्रमिक के कथनों को पृष्ट उसी के शपथपत्र से हो जाती है कि १४-७-८० को समाप्त होने वाले एक कलेंडर वर्ष में उसने २४० दिवस से अधिक सेवा पूरी कर ली थी। श्रमिक २००-२५० का वेतनमान भी प्राप्त कर रहा था जिससे भी यह निष्कर्ष निकला कि श्रमिक ने १८० दिवस की सेवा पूरी कर ली थी इसलिये उसे उक्त वेतनमान मिल रहा था। श्रमिक की तरफ से जो सेवा अवधि का चार्ट प्रस्तुत किया गया है उसकी क्रम सं. ३० पर इस श्रमिक का नाम दर्ज है। इस चार्ट के अनुसार भी दिनांक १५-७-७९ से १४-७-८० तक इस श्रमिक ने २९९ दिवस की सेवा अवधि पूरी कर ली थी फिर भी इसे न तो धारा २५ एक का लाभ दिया गया और न ही बरिष्ठता सूची बनाई गई। इसलिये अभिलेख पर ऐसी पर्याप्त साक्ष्य है कि नियोजक ने धारा २५(एफ) एवं २५(जी) की अवहेलना की है और इस निर्देश का अधिनिर्णय निम्न प्रकार किया जाता है —

श्रमिक गनी गैंगमैन को १४-७-८० से सेवा मुक्ति अनुचित एवं अवैध है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है। इसकी सेवा की निरन्तरता कायम रखने हुए इसे गैंगमैन के पद का वेतन व अन्य सभी लाभ विलाने जाते हैं। अगर नियोजक इसे उक्त राशि प्रत्येक तीन माह में भुगत नहीं करेगा तो उक्त राशि पर प्रतिशत प्रतिवर्ष की दर से ब्याज देना पड़ेगा। जितनी अवधि तक इस श्रमिक ने कोई लाभ अर्जित किया है तो उक्त राशि नियोजक प्रादायगी के समय काट सकता है। उक्त आशय का पंचाट पारित किया जाता है जिस वास्ते प्रकाशन केन्द्र सरकार को भेजा जावे।

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 81/11/84

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या :

एल. 41011(22)-82-डी-II(बी) दिनांक 24-11-1984

मनोहर लाल पुत्र श्री रामवतार माफत भरत सिंह

सैगर, केजुघल लेबर यूनियन, डागा स्कूल के पास, बीकानेर।

बनाम

महाप्रबंधक, नोर्वेन रेलवे मुख्यालय बड़ोवा हाउस,

नई दिल्ली एवं अन्य।

उपस्थिति

माननीय न्यायाधीश श्री जगत सिंह, भार. एच. जे. एस.

यूनियन की ओर से :

श्री भरत सिंह एवं

श्री भरविन्द सिंह

नियोजक की ओर से :

श्री एल. सी. मेहरा

दिनांक प्रवाद :

7-5-1991

प्रवाद

भारत सरकार के आदेश सं. एल. 41011(22)-82-डी-II (बी) दिनांक 24-11-1984 द्वारा 42 श्रमिकों बाबत यह रिकॉर्ड प्राप्त हुआ था और तत्कालीन पीठासीन अधिकारी ने प्रत्येक रिकॉर्ड के लिए पृथक से कार्यवाही प्रारम्भ की थी। इस प्रकार इस रिकॉर्ड में प्रलग से 42 पत्रावलियां खोली गई थीं जिसमें से प्रलग-प्रलग क्लेम पेश हुए। क्लेम के प्रतिउत्तर तथा पक्षकारों की साक्ष्य भी प्रलग ली गई थी।

2. यह पत्रावली श्रमिक मनोहर लाल से संबंधित है जिसकी प्रथम नियुक्ति 21-4-77 को गैंगमैन के पद पर पी. डब्ल्यू. आई., बीकानेर द्वारा की गई थी और जिसने 180 दिवस की सेवा उपरांत 200-250 का वेतनमान भी प्राप्त कर लिया था परन्तु फिर भी उसे 14-3-81 को सेवा मुक्त कर दिया। प्रार्थी सच का कहना है कि हालांकि श्रमिक ने सेवा मुक्ति के समाप्त हुए एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी और इसे 200-250 का वेतनमान भी मिल रहा था परन्तु फिर भी नियोजक ने सेवा मुक्ति से पूर्व न तो गैंगमैन की वरिष्ठता सूची बनाई और न ही श्रमिक को धारा 25एफ का लाभ दिया, यहां तक कि सेवा मुक्ति के उपरांत से नये गैंगमैन भी भर्ती किये गये हैं इसलिए धारा 25एफ, 25जी एवं 25एच की प्रावधानों को अवहेलना की है और सेवा मुक्ति प्रपास्त करने योग्य है।

3. नियोजक ने जरिये प्रतिउत्तर प्रकट किया कि इस श्रमिक को टी. एल. ए. स्वीकृत होने पर गैंगमैन के पद पर नियुक्त किया था इसने 12 मास में निरुत्तर 240 दिवस कार्य नहीं किया और टी. एल. ए. समाप्त होने पर इसकी सेवाएं स्वतः ही समाप्त हो गई थीं। नियोजक के अनुसार 25 एफ, 25जी एवं 25एच की अवहेलना नहीं होती है।

4. श्रमिक ने अपने कथनों के समर्थन में स्वयं का शपथपत्र पेश किया जिससे नियोजक प्रतिनिधि ने जिरह की और डब्ल्यू-1 सेवा अवधि का चार्ट पेश किया। इसके विपरीत नियोजक की तरफ से श्री लाल चंद ने शपथपत्र पेश किया है जिससे श्रमिक प्रतिनिधि ने जिरह की है। प्रलेखिक साक्ष्य में भी एम-1 सेवा अवधि का चार्ट पेश किया है, तत्पश्चात् मैंने पत्रावली का निरीक्षण किया और पक्षकारों के प्रतिनिधियों को विस्तार-पूर्वक सुना।

5. श्रमिक मनोहर लाल ने अपने शपथपत्र द्वारा अपने कथनों को साबित किया है कि उसने 14-3-81 को समाप्त हुए एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा अवधि पूरी कर ली थी और श्रमिक यह भी कहता है कि 180 दिवस की सेवा पूरी होती ही उसे 200-250 का वेतनमान भी नियोजक ने दे दिया था। नियोजक साक्षी भी प्रतिपरीक्षा में स्वीकार करता है कि डब्ल्यू-1 के अनुसार मनोहर लाल ने 15-3-80 से 14-3-81 तक 265 दिवस काम किया है। नियोजक साक्षी यह भी स्वीकार करता है कि वरिष्ठता सूची निकालने का रिकार्ड में हवाला नहीं है, नोटिस देने का भी हवाला नहीं है। इस प्रकार का प्रलेखिक ऐसा पर्याप्त साक्ष्य है कि सेवा मुक्ति के समाप्त हुए एक कलेण्डर वर्ष

में इस श्रमिक ने 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी इसे धारा 25(एफ) का लाभ दिए बिना सेवा मुक्त किया है और वरिष्ठता सूची भी नहीं बनाई है। इसलिए धारा 25(जी) की भी अवहेलना हुई है। अतः इन परिस्थितियों में इस निर्देश का अधिनियम निम्न प्रकार से किया जाता है--

श्रमिक मनोहर लाल गैंगमैन की 14-3-81 से सेवा मुक्ति प्रानुवित एवं अवैध है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है। इसको सेवा को निरुत्तरता कायम रखते हुए इसे गैंगमैन के पद का वेतन व अन्य सभी लाभ दिलये जाते हैं। अगर नियोजक इसे उक्त राशि अन्तर तीन माह अर्थात् नहीं करेगा तो उक्त राशि पर 12 प्रतिशत प्रतिवर्ष की दर से ब्याज देना पड़ेगा। जितनी अवधि तक इस श्रमिक ने कोई लाभ अर्जित किया है तो उक्त राशि नियोजक प्रदायणी के समय काट सकता है। उक्त प्रवाद का प्रवाद पारित किया जाता है, जिसे वास्ते प्रकाशन केन्द्र सरकार को भेजा जावे।

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी., आई. टी. 81/84

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना संख्या :

एल. 41011(22)/82 डी-II(बी) दि. 27-11-1984

जमरल सैनेटरी, रेलवे केजुघल लेबर यूनियन, डागा हाई स्कूल के पास, बीकानेर।

बनाम

डिबीजनल रेलवे मैनेजर, नोर्वेन रेलवे, बीकानेर डिबीजन, बीकानेर।

उपस्थिति

माननीय न्यायाधीश श्री जगत सिंह, भार. एच. जे. एस.

यूनियन की ओर से :

श्री भरत सिंह सैगर एवं

श्री भरविन्द सिंह सैगर

नियोजक की ओर से :

लालचन्द मेहरा

दिनांक प्रवाद :

6-4-1991

प्रवाद

केन्द्र सरकार ने निम्नलिखित विवाद इस न्यायाधिकरण को अधिनियम हेतु अपनी अधिसूचना सं. 41011(22)/82-डी-II(बी) दिनांक 27-11-84 के द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10(1)(घ) के अन्तर्गत प्रेषित किया है--

"Whether the action of the Northern Railway Administration Bikaner Division, Bikaner in terminating the services of following 43 casual workmen without following the procedure as laid down in the industrial Disputes Act is justified? If not to what relief these workmen are entitled?"

2. रेलवे केजुघल लेबर यूनियन, बीकानेर, जिसे तत्पश्चात् प्रार्थी संघ सम्बोधित किया गया है, के द्वारा विवाद उठाने पर यह निर्देश इस न्यायालय में न्याय निर्णयार्थ पठाया गया है, जिसके संलग्न 42 श्रमिकों की सूची है, जिनकी सेवा मुक्ति प्रार्थी नियोजक द्वारा औद्योगिक विवाद अधिनियम, 1947 के प्रावधानों के विपरीत की गई है।

3. भुंकि निर्देश 42 व्यक्तियों से संबंधित था इसलिए सुविधा के लिए तत्कालीन पीठासीन अधिकारी ने प्रत्येक श्रमिक के लिए प्रलग प्रलग पत्रावली कायम की और प्रत्येक पत्रावली पर नया नं. 81/84 आखते हुए 81 नवम्बर के नीचे उप नम्बर डाला गया है।

4. प्रत्येक श्रमिक की तरफ से प्रार्थी संघ ने प्रलग से क्लेम प्रस्तुत किया है और प्रार्थी नियोजक ने भी प्रलग से क्लेम का प्रतिउत्तर प्रस्तुत किया है तथा पक्षकारों ने प्रत्येक श्रमिक के लिए प्रलग प्रलग प्रलेखिक एवं मौखिक साक्ष्य प्रस्तुत की है। उपरोक्त 42 श्रमिकों की पत्रावलियों में कुछ श्रमिकों की साक्ष्य प्रस्तुत हो चुकी है इसलिए पक्षकारों को बहस सुनने के उपरांत उन्हीं का निपटारा किया जा रहा है। इन परिस्थितियों में से प्रत्येक पत्रावली का पृथक से निम्न प्रकार निर्णय दे रहा हूँ--

I. केस नं. सी.आई.टी. 81/1/84 (श्रमिक नन्दकिशोर) :

5. यह पत्रावली नन्दकिशोर से संबंधित है, जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 8-5-78 को की गई थी और जिसे 2-2-80 को सेवा

मुक्त किया गया था। प्रार्थी संघ का कहना है कि सेवा मुक्ति को समाप्त हुए एक कलेण्डर वर्ष में इसने 240 दिवस पूरे कर लिये थे फिर भी इसे धारा 25 (एफ) का लाभ नहीं दिया जबकि नियोजक का कथन है इसने लगातार सेवा नहीं की और धारा 25 एफ लागू नहीं है। अपने कथनों के समर्थन में मन्व किशोर ने स्वयं का शपथपत्र पेश किया और प्रबंध डब्ल्यू-1 सेवा विवरण पेश की इसके विपरीत नियोजक की तरफ से कोई मौखिक साक्ष्य पेश नहीं हुई। प्रलेखिक साक्ष्य में प्रबंध एम-1 सेवा विवरणी पेश हुई है जिसके अनुसार 2-2-80 को समाप्त हुए एक कलेण्डर वर्ष में इस श्रमिक ने 302 दिवस की सेवा पूरी कर ली थी इसलिए इसकी सेवा मुक्ति धारा 25 (एफ) के विपरीत होने से अपास्त की जाती है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे दिनांक 2-2-80 से ही गैंगमैन के पद पर का वेतन व अन्य सभी लाभ दिलाये जाते हैं; अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कार्य कर कोई लाभ अर्जित किया हो तो उक्त अवधि में अर्जित राशि नियोजक काट सकता है।

II. केस नं. सी. आई. टी. 81/2(84) (श्रमिक सुरजन सिंह)

6. यह पन्नाबली सुरजन सिंह से संबंधित है जिसकी नियुक्ति दिनांक 27-1-74 को गैंगमैन के पद पर की गई थी और जिसे 15-5-80 को सेवा मुक्त किया था। प्रार्थी संघ का कहना है इसने 240 दिवस से अधिक सेवा एक कलेण्डर वर्ष में कर ली थी और इसे धारा 25 एफ का लाभ नहीं दिया। इसलिए सेवा मुक्ति अनुचित है। जबकि नियोजक का कथन यह था कि इस श्रमिक ने भी लगातार सेवा नहीं की और धारा 25 एफ लागू नहीं होता। अपने कथनों के समर्थन में सुरजन सिंह ने स्वयं का शपथपत्र दिया है और डब्ल्यू-1 विवरणिका पेश की है। इसके विपरीत नियोजक की तरफ से लालचंद ने शपथपत्र दिया है तथा एम-1 विवरणिका पेश की है जिसके अनुसार दिनांक 15-5-80 को समाप्त हुए एक कलेण्डर वर्ष में इस श्रमिक ने 323 दिवस की सेवा पूरी कर ली थी इसलिए इसकी सेवा मुक्ति धारा 25 (एफ) के विपरीत की गई है जिसे अपास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है। इसकी सेवा की निरन्तरता कायम रखी जाती है तथा इसे 15-5-80 में उक्त पद का वेतन व अन्य मिलने वाले सभी लाभ दिलाए जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कार्य कर लाभ अर्जित किया हो तो उक्त अवधि का अर्जित लाभ वेतन से नियोजक काट सकता है।

III. केस नं. सी. आई. टी. 81/3(84) (श्रमिक राजनन्दन):

7. यह पन्नाबली श्रमिक राजनन्दन से संबंधित है जिसमें प्रार्थी संघ ने प्रकट किया है कि इस श्रमिक ने सेवा मुक्ति के पूर्व एक कलेण्डर वर्ष में 240 दिवस से अधिक काम कर लिया था परन्तु फिर भी नियोजक ने धारा 25 एफ एवं 25 जी के प्रावधानों के विपरीत इसे सेवा मुक्त कर दिया। प्रार्थी नियोजक का कथन है कि इस श्रमिक की नियुक्ति सहायक अभियंता, रतनगढ़ के अधीन दिनांक 1-11-79 को की गई थी जिसने 12 कलेण्डर माह में 240 दिवस का सेवा अवधि पूर्ण नहीं की थी। इसलिए धारा 25 एफ के प्रावधानों के लाभ का अधिकारी नहीं था क्योंकि इसको सेवा मुक्ति छंटनी की परिभाषा में नहीं आती है।

8. श्रमिक राजनन्दन ने अपने शपथ पत्र में प्रकट किया कि उसे 21-2-79 को बेल्टर के पद पर सहायक अभियंता, रतनगढ़ ने नियुक्त किया था तथा उसे 1-11-79 से अनधिकृत रूप से सेवा मुक्त कर दिया और बरिष्ठता सूची भी नहीं बनाई। नियोजक माक्षी हरकेश जोशी लिपिक सहायक अभियंता, कार्यालय रतनगढ़ ने प्रतिपरीक्षा में स्वीकार किया है कि दिनांक 1-11-79 से पूर्व एक कलेण्डर वर्ष में कर्मचारी ने 241 दिवस काम किया था। नियोजक की तरफ से प्रतिउत्तर में के साथ जो सेवा अवधि का चार्ट प्रस्तुत किया गया है उसमें भी 21-2-79 से 1-11-79 तक इस श्रमिक द्वारा 244 दिन सेवा करने का उल्लेख है इसलिए नियोजक की साक्ष्य से यह साबित

है कि श्रमिक राजनन्दन ने 12 कलेण्डर माह में 240 दिवस से अधिक सेवा पूरी कर ली थी और वह धारा 25 एफ के लाभ का अधिकारी था। निर्विवाद रूप से नियोजक ने श्रमिक को सेवा मुक्त के समय धारा 25 एफ का फायदा नहीं दिया इसलिए सेवा मुक्ति आदेश अनुचित एवं अवैध है और यह श्रमिक 1-11-79 से ही बेल्टर के पद पर नियोजित माना जाता है और उसी दिनांक से उसे बेल्टर के पद का वेतन व अन्य सभी लाभ दिलाए जाते हैं। सेवा की निरन्तरता कायम रखी जाती है। अगर श्रमिक ने अन्यत्र जगह कार्य कर लाभ अर्जित किया है तो उक्त अवधि में अर्जित राशि वेतन से कम की जा सकेगी।

IV. सी. आई. टी. 81/5(84) (श्रमिक मोतीदान)

9. यह पन्नाबली मोतीदान से संबंधित है जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 15-3-78 को की गई थी और जिसे 3-8-80 को सेवा मुक्त किया था। प्रार्थी संघ का कहना है कि सेवा मुक्ति से पूर्व एक कलेण्डर वर्ष में इसने 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी इसकी सेवा मुक्ति धारा 25 एफ का लाभ दिखाये बिना कर दी गई। जबकि नियोजक का कहना है कि इसने लगातार सेवा नहीं की और धारा 25 एफ लागू नहीं होती है। अपने कथनों को सिद्ध करने के लिए मोतीदान ने स्वयं का शपथपत्र पेश किया है और डब्ल्यू-1 सेवा विवरणिका पेश की है। इसके विपरीत नियोजक की तरफ से सुरेश कुमार शर्मा ने अपना शपथ पत्र दिया है और डब्ल्यू-1 सेवा विवरणिका पेश की है। एम-1 के अनुसार ही दिनांक 3-8-80 को समाप्त हुए एक कलेण्डर वर्ष में इस श्रमिक ने 288 दिवस कार्य कर लिया था इसलिए इसकी सेवा मुक्ति धारा 25 (एफ) के विपरीत की गई है जिसे अपास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा 3-8-80 से इसको गैंगमैन के पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। अगर सेवा मुक्ति अवधि में इसने अन्यत्र कहीं कोई कार्य कर लाभ अर्जित किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

V. केस नं. सी. आई. टी. 81/6(84) (श्रमिक बुल्हाराम)

10. प्रार्थी संघ के अनुसार श्रमिक बुल्हाराम की नियुक्ति दिनांक 29-8-78 को मूरतगढ़ में गैंगमैन के पद पर की गई थी जहां पर उसने दिनांक 3-8-80 तक कार्य किया था जिस रोज इसकी छंटनी की गई और उसने एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा अवधि पूरी कर ली थी फिर भी उसे धारा 25 एफ का लाभ दिया बिना सेवा मुक्ति कर दी। बरिष्ठता सूची भी नहीं बनाई गई इसलिए धारा 25 जी की अवहेलना हुई है।

11. प्रार्थी नियोजक ने जरिये प्रतिउत्तर कहा है कि बुल्हाराम ने दिनांक 3-8-80 से पूर्व 12 मास में 240 दिवस की सेवा अवधि पूरी नहीं की थी इसलिए वह धारा 25 एफ के लाभ का अधिकारी नहीं था। अपने कथनों को सिद्ध करने के लिए श्रमिक बुल्हाराम ने तो अपने शपथ पत्र में कहा है कि उसने 29-8-78 से 3-8-80 तक कार्य किया। नियोजक माक्षी श्री सुरेश कुमार शर्मा नियोजक माक्षी भी प्रतिपरीक्षा में कहता है कि श्रमिक के कार्य का विवरण एम-1 व एम-2 में सही दिया हुआ है। एम-1 के अनुसार इस श्रमिक ने 3-8-80 को समाप्त हुए एक कलेण्डर वर्ष में 290 दिवस कार्य कर लिया था इसलिए धारा 25 एफ के लाभ का अधिकारी था। निर्विवाद रूप से नियोजक से सेवा मुक्ति के समय इसे धारा 25 एफ का लाभ नहीं दिया गया इसलिए इसकी सेवा मुक्ति छंटनी की परिभाषा में आती है और धारा 25 एफ के विपरीत होने से सेवामुक्ति आदेश अपास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है। इसकी सेवा की निरन्तरता भी कायम रखी जाती है। इसे दिनांक 3-8-80 से गैंगमैन के पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। उक्त अवधि में जितने दिन इस श्रमिक ने अन्यत्र नियोजित होकर कार्य किया हो तो उस अवधि का वेतन नियोजक को मजरा दिया जाता है।

VI. केस नं. सी.आई.टी. 81/7/84 (अमिक हनुमान).

12. यह पत्रावली प्रार्थी हनुमान से संबंधित है जिसकी नियुक्ति खल्लासी के पद पर 24-1-76 को की गई थी जिसे भी 3-8-80 को सेवा मुक्त किया गया। अमिक कहता है कि उसने सेवा मुक्ति के रोज समाप्त हुए एक कलैण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी अमिक 25एफ के प्रावधानों के विपरीत सेवा मुक्त किया गया है। नियोजक ने जरिये प्रति-उत्तर उक्त तथ्यों को प्रस्थापित किया है। प्रार्थी हनुमान ने अपने शपथपत्र में अपने कथनों की पुष्टि की है। नियोजक साक्षी सुरेश कुमार शर्मा की प्रतिपरीक्षा में स्वीकार करता है कि एम-1 और एम-2 बकिंग चार्ट सहो रूप में लिखे गये हैं। एम-1 के निरीक्षण से प्रकट है कि दिनांक 3-8-80 को समाप्त हुए एक कलैण्डर वर्ष में 331 दिन कार्य कर लिया था। इसलिए इसकी सेवा मुक्ति धारा 25एफ के विपरीत होने के अभास्त को जानी है और इसे खल्लासी के पद पर नियोजित घोषित किया जाता है। इसकी सेवा की निरन्तरता कायम रखी जाती है और इसे दिनांक 3-8-80 से ही खल्लासी के पद का वेतन व अन्य सभी लाभ विलाये जाते हैं। अगर सेवा मुक्ति की अवधि में इस अमिक ने अन्यत्र कहीं कोई कार्य किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

VII. केस नं. सी.आई.टी. -81/8/84- (अमिक कल्याण सिंह).

13. यह पत्रावली कल्याण सिंह गैंगमैन से संबंधित है जिसकी नियुक्ति 15-3-79 से गैंगमैन के पद पर की गई थी और 2-7-80 को सेवा मुक्त किया गया था। प्रार्थी संघ का कहना है कि सेवा मुक्ति के समाप्त हुए एक कलैण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी जबकि नियोजक के अनुसार उसने 240 दिवस की सेवा किसी कलैण्डर वर्ष में पूरी नहीं की। इसलिये इसे धारा 25 (एफ) का लाभ नहीं दिया गया।

14. अपने कथनों को सिद्ध करने के लिए कल्याण सिंह ने स्वयं का शपथपत्र प्रस्तुत किया है। नियोजक की ओर से श्री सुरेश शर्मा का शपथपत्र दिया है जिसने प्रतिपरीक्षा में स्वीकार किया है कि एम-1 और एम-2 के अनुसार अमिक ने सेवा अवधि पूरी की है। एम-1 के निरीक्षण से प्रकट हुआ कि 2-7-80 को समाप्त हुए एक कलैण्डर वर्ष में इस अमिक ने 266 दिवस की सेवा पूरी कर ली थी इसलिये इसकी सेवा मुक्ति धारा 25एफ के विपरीत हुई है। जो अभास्त को जानती है। इस अमिक को गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे 2-7-80 से उक्त पद का वेतन व अन्य सभी लाभ विलाये जाते हैं। इसकी सेवा की निरन्तरता कायम रखी जाती है। अगर इस अमिक ने अन्यत्र कहीं कोई कार्य किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

VIII. केस नं. सी.आई.टी. 81/12/84 (अमिक पूरण).

15. यह पत्रावली पूरण से संबंधित है जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 12-7-72 को की गई थी और जिसे दिनांक 8-12-80 को सेवा मुक्त किया था। प्रार्थी संघ का कहना है कि इसने सेवा मुक्ति के रोज समाप्त हुए एक वर्ष में 240 दिवस की सेवा पूरी कर ली थी फिर भी इसे धारा 25एफ का लाभ नहीं दिया गया जबकि नियोजक का कहना है कि इसने लगातार सेवा नहीं की और धारा 25एफ लागू नहीं होता। अपने कथन के समर्थन में अमिक पूरण ने स्वयं का शपथपत्र दिया है और डब्ल्यू-1 सेवा विवरण पेश की है जबकि इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथपत्र पेश किया है और एम-1 सेवा विवरण पेश की है जिसके अनुसार 8-12-80 को समाप्त हुए एक कलैण्डर वर्ष में इस अमिक ने 353 दिन सेवा कर ली थी इसलिये सेवा मुक्ति आदेश धारा 25एफ के विपरीत होने से अभास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे दिनांक 8-12-80 से

गैंगमैन के पद का वेतन व अन्य सभी लाभ विलाये जाते हैं। इसकी सेवा की निरन्तरता कायम रखी जाती है। अगर सेवा मुक्ति अवधि में इस अमिक ने अन्यत्र कहीं कार्य कर कोई लाभ अर्जित किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

IX. केस नं. सी.आई.टी. 81/14/84 (अमिक रूपनाथ).

16. यह पत्रावली अमिक रूपनाथ से संबंधित है जिसकी नियुक्ति गैंगमैन के पद पर 15-3-78 को की गई थी और जिसे 3-12-80 को सेवा मुक्त किया था। प्रार्थी संघ के अनुसार इसने सेवा मुक्ति के समाप्त हुए एक कलैण्डर वर्ष में 240 दिवस की सेवा पूरी कर ली थी परन्तु फिर भी इसे धारा 25एफ का लाभ नहीं दिया गया जबकि नियोजक के अनुसार इस ने लगातार सेवा नहीं की थी और धारा 25एफ लागू नहीं है। अपने कथनों के समर्थन में रूपनाथ ने स्वयं का शपथपत्र पेश किया और डब्ल्यू-1 सेवा विवरण पेश की इसके विपरीत नियोजक की तरफ से सुरेश शर्मा ने शपथपत्र दिया तथा एम-1 सेवा विवरण पेश की जिसके अनुसार 3-12-80 को समाप्त हुए एक वर्ष में इस अमिक ने 251 दिवस की सेवा कर ली थी इसलिये इसकी सेवा मुक्ति धारा 25एफ के विपरीत की गई है जिसे अभास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा उक्त पद का वेतन व अन्य सभी लाभ 3-12-80 से विलाये जाते हैं। अगर सेवा अवधि में इस अमिक ने अन्यत्र कहीं लाभ का कार्य कर धन अर्जित किया हो तो नियोजक उक्त अवधि का वेतन काट सकता है इसकी सेवा की निरन्तरता कायम रखी जायेगी।

X. केस नं. सी.आई.टी. 81/15/84 (अमिक हीरा).

17. यह पत्रावली हीरा से संबंधित है जिसकी नियुक्ति दिनांक 30-9-73 को गैंगमैन के पद पर की गई थी और जिसे 25-11-79 को सेवा मुक्त किया था। प्रार्थी संघ का कहना है कि इसने एक कलैण्डर वर्ष में 240 दिवस की सेवा पूरी कर ली थी और इसे धारा 25 (एफ) का लाभ नहीं दिया जबकि नियोजक का कहना है कि उसने लगातार 240 दिवस का सेवा पूरा नहीं की और 25एफ लागू नहीं होता। अपने कथनों के समर्थन में हीरा ने स्वयं का शपथपत्र प्रस्तुत किया है और डब्ल्यू-1 विवरण पेश की है। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथपत्र पेश किया है तथा एम-1 सेवा विवरण पेश की है। एम-1 के अनुसार ही 25-11-79 को समाप्त हुए एक कलैण्डर वर्ष में इस अमिक ने 303 दिवस की सेवा पूरी कर ली थी और इसकी सेवा मुक्ति धारा 25एफ के विपरीत की गई है। इसलिये इसका सेवा मुक्ति आदेश अभास्त किया जाता है। इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा उक्त पद का वेतन तथा अन्य सभी लाभ दिनांक 25-11-79 से विलाये जाते हैं। अगर इस अमिक ने सेवा मुक्ति अवधि में अन्यत्र कोई कार्य किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

XI. केस नं. सी.आई.टी. 81/16/84 (अमिक अब्दुल मजीद).

18. यह पत्रावली अब्दुल मजीद से संबंधित है जिसे दिनांक 10-7-77 को गैंगमैन के पद पर नियोजित किया गया था और 7-3-81 को सेवा मुक्त किया गया। प्रार्थी संघ के अनुसार इसने सेवा मुक्ति के समाप्त हुए एक वर्ष में 240 दिवस की सेवा पूरी कर ली थी लेकिन अमिक की धारा 25एफ के प्रावधानों का लाभ नहीं दिया गया जबकि नियोजक के अनुसार इसने लगातार सेवा पूरी नहीं की थी इसलिये धारा 25एफ लागू नहीं होता। अपने कथन के समर्थन में अमिक ने अपना शपथपत्र प्रस्तुत किया है और डब्ल्यू-1 सेवा विवरण पेश की है इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथपत्र दिया है और प्रदर्श एम-1 सेवा विवरण का पेश की है। प्रतिपरीक्षा में स्वीकार किया है कि एम-1 के अनुसार इस अमिक

ने दिनांक 9-3-80 से 7-3-81 तक 335 दिन कार्य किया है। इस प्रकार इस श्रमिक का सेवा मुक्ति भी धारा 25(एफ) के विपरीत की गई है। जिसे प्रपास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा उक्त पद का वेतन व अन्य सभी लाभ 7-3-81 से विलम्बे जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने कहीं अन्यत्र कार्य कर लाभ अर्जित किया है तो उक्त अवधि का वेतन नियोजक काट सकता है।

XII. केस नं. सी. आई. टी. 81/17/84 (श्रमिक चौधुराम) :

19. यह पञ्जाबली चौधुराम गैंगमैन से संबंधित है जिसकी नियुक्ति दिनांक 25-12-76 को की गई थी और 14-7-80 को इसकी सेवा मुक्ति की गई। प्रार्थी संघ का कहना है कि इस श्रमिक ने भी सेवा मुक्ति के रोज समाप्त हुए एक कलेण्डर वर्ष में 240 दिवस से अधिक नौकरी कर ली थी फिर भी इसे धारा 25(एफ) का लाभ नहीं दिया गया। प्रार्थी नियोजक का कहना है श्रमिक ने लगातार सेवा नहीं की है इसलिए धारा 25(एफ) के लाभ का अधिकारी नहीं है।

20. अपने कथनों के समर्थन में चौधुराम ने स्वयं का शपथ पत्र प्रस्तुत किया है। नियोजक की तरफ से श्री लालचंद सिन्धी का परीक्षण हुआ है और श्रमिक की सेवा का विवरण प्रवर्ष एम-1 प्रस्तुत किया है जिसके अनुसार 14-7-80 को सेवा मुक्ति के रोज इस श्रमिक ने एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी जिसकी सेवा मुक्ति भी धारा 25(एफ) के विपरीत होने से प्रपास्त की जाती है। इसे भी गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा दिनांक 14-7-80 से उक्त पद का वेतन व अन्य सभी लाभ विलम्बे जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कहीं कोई कार्य किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

XIII. केस नं. सी. आई. टी. 81/18/84 (श्रमिक अमर सिंह) :

21. यह पञ्जाबली अमर सिंह से संबंधित है जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 28-8-79 को की गई थी और जिसे 14-7-80 को सेवा मुक्ति किया गया था। प्रार्थी संघ का कहना है कि सेवा मुक्ति के रोज समाप्त हुए एक वर्ष में इस श्रमिक ने 240 दिवस पूरे कर लिये थे फिर भी इसे धारा 25(एफ) का लाभ नहीं दिया जबकि नियोजक के अनुसार हमने लगातार सेवा नहीं की और धारा 25(एफ) लागू नहीं होती। अपने कथनों के समर्थन में अमर सिंह ने स्वयं का शपथ पत्र पेश किया है और डब्ल्यू-1 सेवा विवरणों का पेश की है। इसके विपरीत नियोजक की तरफ से श्री लालचंद शपथ पत्र दिया है और एम-1 सेवा विवरणों पेश की है, जिसके अनुसार 14-7-80 को समाप्त हुए एक कलेण्डर वर्ष में इस श्रमिक ने 302 दिवस सेवा कर ली थी इसलिए इसकी सेवा मुक्ति धारा 25(एफ) के विपरीत होने से प्रपास्त की जाती है और इसे गैंगमैन के पद पर नियोजित के विपरीत घोषित किया जाता है तथा इसे दिनांक 14-7-80 से गैंगमैन का वेतन व अन्य सभी लाभ विलम्बे जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने कहीं अन्यत्र कार्य कर घन अर्जित किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

XIV. केस नं. सी. आई. टी. 81/19/84 (श्रमिक सुरजन सिंह पुत्र नन्दजी) :

22. यह पञ्जाबली सुरजन सिंह गैंगमैन से संबंधित है जिसकी नियुक्ति दिनांक 15-8-78 को की गई थी और सेवा मुक्ति 14-7-80 को की गई। प्रार्थी संघ का कहना है कि इस श्रमिक ने भी 240 दिवस की सेवा अवधि पूरी कर ली थी परन्तु फिर भी इसे धारा 25(एफ) का लाभ दिये बिना सेवा मुक्ति किया गया। इसके विपरीत नियोजक का कथन है कि इस श्रमिक ने किसी भी वर्ष में 240 दिवस या इससे अधिक की सेवा नहीं की इसलिए धारा 25(एफ) को पालना करना आवश्यक नहीं था।

23. अपने कथनों के समर्थन में श्रमिक ने स्वयं का शपथ पत्र पेश किया है। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथ पत्र पेश किया है और एम 1 श्रमिक का सेवा विवरण पेश किया है जिसके अनुसार 14-7-80 को समाप्त हुए एक कलेण्डर वर्ष में श्रमिक ने 243 दिवस सेवा पूरी की थी इसलिए यह श्रमिक धारा 25(एफ) के लाभ का अधिकारी था। जिसकी नियोजक ने अवहेलना की है इसलिए सेवा मुक्ति प्रवेश प्रपास्त किया जाता है। इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे उक्त पद का वेतन व अन्य सभी लाभ 14-7-80 से विलम्बे जाते हैं। सेवा की निरन्तरता कायम रखी जाती है अगर सेवा मुक्ति की अवधि में इस श्रमिक ने कोई अन्यत्र कार्य किया है तो उक्त अवधि का वेतन नियोजक काट सकता है।

XV. केस नं. सी. आई. टी. 81/20/84 (श्रमिक जालाराम) :

24. यह पञ्जाबली जालाराम से संबंधित है जिसकी नियुक्ति 1-5-79 को गैंगमैन के पद पर की गई थी और इसे 14-7-80 को सेवा मुक्ति किया था प्रार्थी संघ का कहना है कि सेवा मुक्ति के रोज समाप्त हुए एक वर्ष में इस श्रमिक ने 240 दिवस पूरे कर लिये थे फिर भी इसे धारा 25(एफ) का लाभ नहीं दिया जबकि नियोजक के अनुसार हमने 240 दिवस की अवधि लगातार पूरी नहीं की इसलिए 25(एफ) लागू नहीं है। अपने कथनों के समर्थन में जालाराम ने स्वयं का शपथ पत्र पेश किया है और डब्ल्यू-1 सेवा विवरणों पेश की है। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथ पत्र पेश किया था और एम-1 सेवा विवरणों पेश की है। एम-1 के अनुसार इस श्रमिक ने 14-7-80 को समाप्त हुए एक कलेण्डर वर्ष में 274 दिवस कार्य किया है इसलिए धारा 25(एफ) को अवहेलना की गई है। और सेवा मुक्ति प्रवेश प्रपास्त किया जाता है। तथा इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है और इसे 14-7-80 से गैंगमैन का वेतनमान्य सभी लाभ विलम्बे जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कहीं सेवा कर लाभ अर्जित किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

XVI. केस नं. सी. आई. टी. 81/21/84 (श्रमिक गोविन्दराम) :

25. यह पञ्जाबली श्रमिक गोविन्दराम गैंगमैन से संबंधित है जिसकी नियुक्ति दिनांक 24-4-73 को की गई थी। इसे दिनांक 27-7-80 को सेवा मुक्ति किया गया। प्रार्थी संघ का कहना है इस श्रमिक ने भी 240 दिन से अधिक सेवा पूरी कर ली थी फिर भी धारा 25(एफ) का लाभ नहीं दिया गया। नियोजक का कथन है कि इस श्रमिक ने लगातार 240 दिन की सेवा अवधि पूरी नहीं की और वह धारा 25(एफ) के लाभ का अधिकारी नहीं था।

26. श्रमिक गोविन्दराम ने अपने कथनों के समर्थन में स्वयं का शपथ पत्र प्रस्तुत किया है। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथ पत्र दिया है और प्रवर्ष डब्ल्यू-1 सेवा विवरण प्रस्तुत किया है इसमें क्रम सं. 23 पर इस श्रमिक का नाम वर्ज है जिसने 27-7-80 को समाप्त हुए एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी। इसलिए इसकी सेवा मुक्ति धारा 25(एफ) के विपरीत की गई है। जिसे प्रपास्त किया जाता है। और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है। इसे उक्त पद का वेतन व अन्य सभी लाभ 27-7-80 से विलम्बे जाते हैं। अगर इस श्रमिक ने सेवा मुक्ति की अवधि में अन्यत्र कहीं कोई कार्य किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

XVII. केस नं. सी. आई. टी. 81/23/84 (श्रमिक भगवर्त प्रसाद) :

27. यह पञ्जाबली भगवर्त प्रसाद से संबंधित है जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 1-10-77 को की गई थी और जिसे सेवा मुक्ति 24-9-80 को किया था। प्रार्थी संघ का कहना है कि सेवा मुक्ति के रोज समाप्त हुए एक कलेण्डर वर्ष में इस श्रमिक ने 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी इसे धारा 25(एफ) का लाभ नहीं दिया

जबकि नियोजक का कथन यह है कि इसने लगातार सेवा नहीं की और धारा 25एफ लागू नहीं होता। अपने कथनों के समर्थन में भगवती प्रसाद श्रमिक ने स्वयं का शपथ पत्र पेश किया है और डब्ल्यू-1 सेवा विवरणी पेश की है। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथ पत्र पेश किया है। डब्ल्यू-1 की कलम में, 25 पर इस श्रमिक की सेवा का उल्लेख है जिसके अनुसार इसने दिनांक 25-9-79 से 24-9-80 तक 310 दिवस की सेवा अवधि पूरी कर ली है। इसलिए इसकी सेवा मुक्ति धारा 25एफ के विपरीत की गई है, जिसे अपास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे उक्त पद का वेतन व अन्य सभी लाभ 24-9-80 से दिलाये जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कार्य कर कोई लाभ अर्जित किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

XVIII. केस नं. सी. आई. टी. 81/25/84 (श्रमिक मांगूराम):

28. यह पत्रावली मांगूराम से संबंधित है जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 21-8-77 को की गई थी और जिसे 12-2-80 को सेवा मुक्त किया था। प्रार्थी संघ का कहना है कि सेवा मुक्ति के रोज समाप्त हुए एक वर्ष में इस श्रमिक ने 240 दिवस पूरे कर लिये थे फिर भी इसे धारा 25एफ का लाभ नहीं दिया गया जबकि नियोजक के अनुसार इसने लगातार सेवा पूरी नहीं की और धारा 25एफ लागू नहीं है। अपने कथनों के समर्थन में मांगूराम ने स्वयं ने शपथ पत्र पेश किया था और डब्ल्यू-1 सेवा विवरणी पेश की है जबकि इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथ पत्र दिया है और एम-1 सेवा विवरणी पेश की है जिसके अनुसार दिनांक 12-2-80 को समाप्त हुए एक वर्ष में इस श्रमिक ने 295 दिवस कार्य कर लिया था इसलिए इसकी सेवा मुक्ति धारा 25एफ के विपरीत होने से अपास्त की जाती है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे 12-2-80 से गैंगमैन के पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। अगर इस श्रमिक ने सेवा मुक्त अवधि में अन्यत्र कार्यकर कोई लाभ अर्जित किया हो तो उक्त अवधि का वेतन नियोजक काट सकता है।

XIX. केस नं. सी. आई. टी. 81/26/84 (श्रमिक भीम सिंह):

29. यह पत्रावली श्रमिक भीमसिंह से संबंधित है इसकी नियुक्ति गैंगमैन के पद पर दिनांक 25-12-76 को की गई थी और जिसे 15-5-80 को सेवा मुक्त किया गया था। प्रार्थी संघ का कहना है कि इस श्रमिक ने सेवा मुक्ति के रोज एक कलेण्डर वर्ष में 240 दिवस पूरे कर लिये थे फिर भी इसे धारा 25एफ का लाभ नहीं दिया गया जबकि नियोजक का कथन है कि इस श्रमिक ने लगातार सेवा नहीं की है। इसलिए इसे धारा 25एफ का लाभ नहीं दिया गया। अपने कथनों के समर्थन में श्रमिक भीम सिंह ने स्वयं का शपथ पत्र दिया है। इसके विपरीत नियोजक की तरफ से सुरेश कुमार शर्मा ने शपथ पत्र प्रस्तुत किया है और कार्य विवरण की सूची प्रस्तुत की है जिसके अनुसार दिनांक 15-5-80 को समाप्त हुए एक कलेण्डर वर्ष में श्रमिक ने 240 दिवस से अधिक सेवा पूरी कर ली थी इसलिए इसकी सेवा मुक्ति धारा 25एफ के प्रावधानों के विपरीत होने से सेवा मुक्ति अपास्त किया जाता है और इसे गैंगमैन के पद पर पुनः नियोजित घोषित किया जाता है तथा दिनांक 15-5-80 से इसे उक्त पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। अगर उक्त अवधि में श्रमिक ने कहीं अन्यत्र लाभ का कार्य कर धन अर्जित किया हो तो उसकी अवधि का वेतन नियोजक काट सकता है।

XX. केस नं. सी. आई. टी. 81/27/84 (श्रमिक नारायण सिंह):

30. यह पत्रावली नारायण सिंह से संबंधित है जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 1-7-77 को की गई थी और जिसे 14-7-80 को सेवा मुक्त किया था। प्रार्थी संघ का कहना है कि इस श्रमिक ने सेवा मुक्ति के रोज समाप्त हुए एक कलेण्डर वर्ष में 240

दिवस से अधिक सेवा पूरी कर ली थी फिर भी इसे धारा 25एफ का लाभ नहीं दिया गया जबकि नियोजक का कहना है कि इसने लगातार सेवा नहीं की और धारा 25एफ लागू नहीं होता। अपने कथनों के समर्थन में नारायण सिंह ने स्वयं का शपथ पत्र पेश किया है और डब्ल्यू-1 सेवा विवरणी पेश की है। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथ पत्र दिया है और एम-1 सेवा विवरणी पेश की है। एम-1 के अनुसार 11-7-80 को समाप्त कुछ एक कलेण्डर वर्ष में इस श्रमिक ने 295 दिन काम कर लिया था इसलिए इसकी सेवा मुक्ति धारा 25एफ के विपरीत की गई है जिसे अपास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे दिनांक 14-7-80 से गैंगमैन के पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। अगर सेवा मुक्त अवधि में इस श्रमिक ने अन्यत्र कहीं कोई सेवा कर लाभ अर्जित किया हो तो उतनी ही अवधि का वेतन नियोजक काट सकता है।

XXI. केस नं. सी. आई. टी. 81/30/84 (श्रमिक मंगलाराम):

31. यह पत्रावली मंगलाराम से संबंधित है जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 9-2-83 को की गई थी और जिसे 14-7-80 को सेवा मुक्त किया गया था। प्रार्थी संघ का कहना है कि श्रमिक ने अपनी एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा कर ली थी जिसे उसे धारा 25 एफ का लाभ नहीं दिया गया। नियोजक का कहना है कि इस श्रमिक ने लगातार सेवा पूरी नहीं की इसलिए इसे धारा 25एफ का लाभ नहीं दिया।

32 अपने कथनों के समर्थन में मंगलाराम ने स्वयं का शपथ पत्र पेश किया है और डब्ल्यू-1 सेवा अवधि का विवरण पेश किया है। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने बयान दिए हैं जिसमें प्रतिपरीक्षा में स्वीकार किया है कि इस श्रमिक ने दिनांक 14-7-80 को समाप्त हुए एक कलेण्डर वर्ष में 240 दिवस कार्य किया है। इन परिस्थितियों में सेवा मुक्ति आदेश धारा 25 (एफ) के विपरीत जारी किया गया है जो समाप्त किया जाता है और मंगलाराम को अपने पद पर नियोजित घोषित किया जाता है। इसकी सेवा की निरन्तरता कायम रखी जाती है तथा दिनांक 14-7-80 से गैंगमैन के पद का वेतन व अन्य मिलने वाले सभी लाभ दिलाये जाते हैं। अगर श्रमिक से सेवा मुक्त अवधि में जितने दिन अन्यत्र कहीं कार्य किया हो तो उतने दिन की अवधि का वेतन नियोजक काट सकता है।

XXII. केस नं. सी. आई. टी. 81/32/84 (श्रमिक चौराखा):

33. श्रमिक चौराखा से यह पत्रावली संबंधित है। इसकी नियुक्ति गैंगमैन के पद पर दिनांक 15-11-77 को की गई थी और 25-10-80 को सेवा मुक्ति की गई थी। प्रार्थी संघ का कहना है कि इसने भी सेवा मुक्ति के रोज एक कलेण्डर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी इसे धारा 25एफ का लाभ नहीं दिया। इसके विपरीत नियोजक का कहना है कि इसने लगातार सेवा नहीं की इसलिए धारा 25एफ लागू नहीं है।

34. श्रमिक चौराखा ने अपने कथनों के समर्थन में स्वयं का शपथ पत्र पेश किया था। इसके विपरीत नियोजक की तरफ से लालचंद ने शपथ पत्र दिया है और सेवा विवरणी एम-1 को स्वीकार किया है। जिसके अनुसार 25-10-80 को समाप्त हुए एक कलेण्डर वर्ष में इस श्रमिक ने 331 दिवस की सेवा पूरी कर ली थी इसलिए इसकी सेवा मुक्ति धारा 25एफ के विपरीत की गई है इसलिए इसे अपास्त किया जाता है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा इसे 25-10-80 से उक्त पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। अगर सेवा मुक्ति की अवधि में इस श्रमिक जितने दिन अन्यत्र कहीं लाभ का कार्य किया हो तो नियोजक उतनी अवधि का वेतन काट सकता है।

XXIII. केस नं. सी. आई. टी. 81/33/84 (श्रमिक पादुराम)

35. यह पत्रावली पादुराम श्रमिक से संबंधित है इसकी नियुक्ति गैंगमैन के पद पर दिनांक 30-4-73 को की गई थी और 14-7-80 को सेवा मुक्त किया गया था। प्रार्थी संघ का कहना है कि इसने एक कलेंडर वर्ष में 240 दिवस में अधिक सेवा पूरी कर ली थी फिर भी इसे धारा 25एफ का लाभ नहीं दिया जबकि नियोजक का कहना है कि इसने लगातार सेवा नहीं की और धारा 25 एफ लाभ नहीं है। अपने कथनों को सिद्ध करने के लिए श्रमिक पादुराम ने स्वयं का शपथ पत्र दिया है इसके विपरीत नियोजक माश्री लालचंद ने शपथ पत्र दिया है और प्रतिपरीक्षा में स्वीकार किया है कि श्रमिक ने 15-4-79 से 14-7-80 तक 240 दिन कार्य किया है। इन परिस्थितियों में नियोजक ने धारा 25 (एफ) के विपरीत सेवा मुक्ति की है। जिसे अपास्त की जाती है। और इस गैंगमैन के पद पर इस श्रमिक को नियोजित घोषित किया जाता है तथा इसे दिनांक 14-7-80 से गैंगमैन के पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं अगर सेवा मुक्ति अवधि में इस श्रमिक ने जितने दिन अन्यत्र कहीं कार्य कर लाभ अर्जित किया हो तो नियोजक उतनी ही अवधि का वेतन काट सकता है।

XXIV. केस नं. सी. आई. टी. 81/34/84 (श्रमिक चित्ता मिह)

36. यह पत्रावली श्रमिक चित्ता मिह से संबंधित है। जिसकी नियुक्ति गैंगमैन के पद पर दिनांक 7-4-77 को की गई थी और 3-8-80 को सेवा मुक्त किया गया था। प्रार्थी संघ का कहना है कि इस श्रमिक ने 240 दिवस की सेवा पूरी कर ली थी फिर भी इसे धारा 25 (एफ) का लाभ नहीं दिया गया है। जबकि नियोजक का कहना है कि इसने लगातार 240 दिवस की सेवा पूरी नहीं की इसलिए धारा 25एफ लागू नहीं है। अपने कथनों के समर्थन में चित्तामिह ने स्वयं का शपथ पत्र दिया है। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथ पत्र पेश किया है जो प्रतिपरीक्षा में स्वीकार करता है कि इन्स्यू-1 के अनुसार इस श्रमिक ने 3-8-79 से 2-8-80 तक 348 दिवस कार्य किया है। इन परिस्थितियों में सेवा मुक्ति धारा 25 एफ के विपरीत होने से अपास्त की जाती है और गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा उक्त पद का वेतन व अन्य सभी लाभ 3-8-80 से इसे दिलाये जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कहीं कोई कार्य किया हो तो उस अवधि का वेतन नियोजक काट सकता है।

XXV. केस नं. सी. आई. टी. 81/35/84 (श्रमिक जगदीश)

37. यह पत्रावली श्रमिक जगदीश से संबंधित है। इसकी नियुक्ति गैंगमैन के पद पर दिनांक 10-6-77 को की गई थी और 24-9-80 को सेवा मुक्त किया गया। श्रमिक संघ के अनुसार इसने एक कलेंडर वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी धारा 25 एफ की पालना कि बिना सेवा मुक्त किया गया। इसके विपरीत नियोजक का कहना है कि श्रमिक ने लगातार 240 दिवस की सेवा पूरी नहीं की इसलिए धारा 25एफ लागू नहीं है। अपने कथनों के समर्थन में श्रमिक जगदीश ने स्वयं शपथ पत्र पेश किया और इन्स्यू-1 सेवा विवरणी पेश की। इसके विपरीत नियोजक की तरफ से लालचंद का शपथ पत्र पेश हुआ है जो प्रतिपरीक्षा में स्वीकार करता है कि इन्स्यू-1 पर "ए से बी" वस्तुतः सहायक अभियंता डी. पी. अग्रवाल के हैं। नियोजक की तरफ से भी एम-1 सेवा विवरणी पेश हुई है जिसके अनुसार भी 24-2-80 को समाप्त हुए एक कलेंडर वर्ष में इस श्रमिक ने 240 दिवस से अधिक सेवा पूरी कर ली थी। इसलिए सेवा मुक्ति आदेश धारा 25 (एफ) के विपरीत होने से अपास्त की जाती है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा उक्त पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। अगर श्रमिक ने सेवा मुक्ति की अवधि में अन्यत्र कार्य किया है तो उस अवधि का वेतन नियोजक काट सकता है।

XXVI (केस नं. सी. आई. टी. 81/36/84 (श्रमिक अनिल कुमार)

38. यह पत्रावली अनिल कुमार से संबंधित है जिसे खल्लासी के पद पर दिनांक 1-9-79 को नियोजित किया गया था और इसे 7-10-80 को सेवा मुक्त किया। प्रार्थी संघ का कहना है कि इसने सेवा मुक्ति के समाप्त हुए दिन एक वर्ष में 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी इसे श्रमिक 25 (एफ) का लाभ दिया। जबकि नियोजक का कहना है कि इसने लगातार सेवा नहीं की और धारा 25एफ लागू नहीं होते। अपने कथनों के समर्थन में अनिल कुमार ने स्वयं का शपथ पत्र पेश किया और इन्स्यू-1 सेवा विवरणी पेश की। इसके विपरीत नियोजक की तरफ से श्री लालचंद ने शपथ पत्र पेश किया है और एम-1 सेवा विवरणी पेश की है जिसके अनुसार 7-10-80 को समाप्त हुए एक कलेंडर वर्ष में इसने 284 दिवस पूरे कर लिये थे और इसकी सेवा मुक्ति धारा 25एफ के विपरीत होने से अपास्त की जाती है तथा इसे खल्लासी के पद पर नियोजित घोषित किया जाता है और दिनांक 7-10-80 से उसे उक्त पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कार्य कर कोई लाभ अर्जित किया हो तो उस अवधि का वेतन नियोजक काट सकता है।

XXVII केस नं. सी. आई. टी. 81/38/84 (श्रमिक हजारी मिह)

39. यह पत्रावली हजारी मिह से संबंधित है जिसे गैंगमैन के पद पर 2-2-78 को नियोजित किया गया था और जिसे 3-8-80 को सेवा मुक्त किया था। प्रार्थी संघ का कहना है कि सेवा मुक्ति के समाप्त हुए दिन एक वर्ष में इसने 240 दिवस पूरे कर लिये थे फिर भी इसे धारा 25-एफ का लाभ नहीं दिया जबकि नियोजक का कहना है कि इसने लगातार सेवा नहीं की और धारा 25एफ लागू नहीं होती। अपने कथनों के समर्थन में हजारी मिह ने स्वयं का शपथ पत्र पेश किया है और इन्स्यू-1 सेवा विवरणी पेश की है। इसके विपरीत नियोजक की तरफ से श्री सुरेश कुमार ने शपथ पत्र पेश किया है और एम-1 सेवा विवरणी पेश की है। जिसके अनुसार 3-8-80 को समाप्त हुए एक वर्ष में इस श्रमिक ने 305 दिवस पूरे कर लिये थे और इसकी सेवा मुक्ति धारा 25-एफ के विपरीत होने से अपास्त की जाती है। तथा इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है और उक्त पद का वेतन तथा अन्य सभी लाभ 3-8-80 से दिलाये जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कार्य कर कोई लाभ अर्जित किया हो तो उस अवधि का वेतन नियोजक काट सकता है।

XXVIII केस नं. सी. आई. टी. 81/39/84 (श्रमिक सच्चिदानन्द)

40. यह पत्रावली सच्चिदानन्द से संबंधित है जिसे गैंगमैन के पद पर 2-4-76 को नियोजित किया गया था और जिसे 3-8-80 से सेवा मुक्त किया गया। प्रार्थी संघ का कहना है कि सेवा मुक्ति के समाप्त हुए एक वर्ष में इसने 240 दिवस से अधिक सेवा पूरी कर ली थी फिर भी इसे धारा 25एफ का लाभ नहीं दिया गया जबकि नियोजक का कहना है कि इसने लगातार सेवा नहीं की और धारा 25एफ लागू नहीं होती। अपने कथनों के समर्थन में सच्चिदानन्द ने स्वयं का शपथ पत्र पेश किया है और इन्स्यू-1 सेवा विवरणी पेश की है। इसके विपरीत नियोजक की तरफ से सुरेश कुमार ने शपथ पत्र दिया है। और एम-1 सेवा विवरणी पेश की है जिसके अनुसार 3-8-80 को समाप्त हुए एक कलेंडर वर्ष में इस श्रमिक ने 319 दिवस की सेवा कर ली थी और इसकी सेवा मुक्ति धारा 25 (एफ) के विपरीत होने से अपास्त की जाती है और इसे गैंगमैन के पद पर नियोजित घोषित किया जाता है तथा 3-8-80 से इसे गैंगमैन के पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं। अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कार्य कर कोई लाभ अर्जित किया हो तो उस अवधि का वेतन नियोजक काट सकता है।

XXIX केस नं. सी. आई. टी. 81/41/84 (श्रमिक ओमप्रकाश)

41. यह पत्रावली ओम प्रकाश श्रमिक से संबंधित है जो दिनांक 3-5-78 को गैंगमैन के पद पर नियोजित हुआ था जिसे दिनांक 3-12-80 को सेवा मुक्त किया गया था। प्रार्थी संघ का कहना है कि इसने भी

240 दिन से अधिक सेवा पूरा करने की किर भी इसे धारा 25एफ के प्रावधानों का लाभ नहीं दिया गया जबकि नियोजक का कहना है कि इसने लगातार सेवा नहीं की और धारा 25एफ लागू नहीं होती। अपने कथनों के समर्थन में श्रमिक ओम प्रकाश ने स्वयं का शपथपत्र पेश किया है तथा इन्सु-1 कार्य विवरण पेश की है। इसके विपरीत नियोजक की तरफ से भी सुरेश कुमार शर्मा ने शपथ पत्र दिया है और प्रतिपक्षी में स्वीकार किया है कि विनांक 3-12-80 से पूर्व एक कलेण्डर वर्ष में श्रमिक ने 256 दिन कार्य किया था तथा इसे नोटिस में और छटनी मुद्रावजा नहीं दिया गया। इन परिस्थितियों में यह साबित है कि सेवामुक्ति के रोज समाप्त हुए एक कलेण्डर वर्ष में इस श्रमिक ने 240 दिनों से अधिक सेवा पूरी कर ली थी और इसकी सेवा मुक्ति धारा 25(एफ) के विपरीत होने से अपास्त की जाती है। इसे गैरमैन के पद पर नियोजित घोषित किया जाता है। सेवा की निरन्तरता कायम रखी जाती है तथा इसे 3-12-80 से उक्त पद का वेतन व अन्य सभी लाभ दिलाये जाते हैं अगर सेवा मुक्ति अवधि में इस श्रमिक ने अन्यत्र कहीं सेवा कर लाभ अर्जित किया हो तो नियोजक उस अवधि का वेतन काट सकता है।

42. प्रार्थी संघ ने इन सभी पत्रावलियों में यह भी आपत्ति उठाई थी कि सेवा मुक्ति से पूर्व नियोजक ने श्रमिकों की वरिष्ठता सूची तैयार नहीं की न नोटिस बोर्ड पर लगाई। इसलिए धारा 25(जी) एवम नियम-77 की भी अवहेलना की है। नियोजक पक्ष के अनुसार वरिष्ठता सूची बनाना आवश्यक नहीं था। मेरी राय में नियोजक ने धारा 25एफ के साथ 25(जी) की भी अवहेलना की है। क्योंकि नियोजक से अपेक्षा थी कि वह सेवा मुक्ति से पूर्व इन श्रमिकों से संबंधित केटेगरी की वरिष्ठ सूची तैयार करता और इसकी एक प्रति नोटिस बोर्ड पर लगाता इसलिए नियोजक ने धारा 25 (जी) की भी अवहेलना की है और इस बिन्दु पर भी इन उपरोक्त समस्त श्रमिकों की सेवा मुक्ति अपास्त की जाती है। नियोजक को यह भी आदेश है कि अगर अवधि प्रकाशन के तान माह के अन्दर इन श्रमिकों को सेवा मुक्ति अवधि का वेतन नहीं दिया गया तो उक्त राशि पर 12 प्रतिशत प्रतिवर्ष की दर से ब्याज भी देना होगा। उक्त समस्त श्रमिकों की सेवाओं की निरन्तरता कायम रखी जाती है। शेष श्रमिकों का विवाद पक्षकारों की साक्ष्य के उपरान्त बहुत सुनकर निपटाया जायेगा। उक्त आशय का पंचाट पारित किया जाता है, जिसे वास्ते प्रकाशन केन्द्र सरकार को अंतर्गत धारा 17 (1) अधिनियम भेजा जावे।

अगत सिंह, न्यायाधीश

[नं. एल-41011/22/82-बी II (बी) (पीटी)]

नई दिल्ली, 7 नवम्बर, 1991

का.आ. 2975 - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेन्ट्रल इन्स्टीट्यूट आफ फ्रेश वाटर एक्वाकल्चर के प्रबंधन के संबंध में निोजकों और उनके कर्मचारियों के बीच अनुबंध में निष्ठित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करता है जो केन्द्रीय सरकार को 4-11-91 को प्राप्त हुआ था।

New Delhi, the 7th November, 1991

S.O. 2975.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Institute of Fresh Water Acquacultural and their workmen, which was received by the Central Government on 4-11-91.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, AT HYDERABAD

PRESENT :

Shri G. Krishna Rao, B.A., B.L., Industrial Tribunal,

Thirtieth day of September Nineteen Hundred Ninety one
Industrial Dispute No. 63 of 1989

BETWEEN :

The workmen of Central Institute of Fresh Water Acquacultural, Kakinada (AP)

Petitioner/Workmen

AND

The Management of Central Institute of Fresh Water Acquacultural, Kakinada (AP)

Respondent/Management.

The Management of Central Institute of Fresh Water presence of Sarvashri P. B. Vijaya Kumar, B. N. Patre and P. Srinivasa Rao, Advocates for the workmen and Shri M. Vittal Rao, Central Government Additional Standing Counsel for Labour Courts and Industrial Tribunal for the management and having stood over for consideration till this day, the court passed the following.

AWARD

This is a reference made by the Government of India, Ministry of Labour, by its Order No. L-42012/103/88-D.II(B) dated 31-8-1989 for adjudication of the dispute between the Management of Central Institute of Fresh Water Acquaculture, Kakinada and their workman setting forth the point for adjudication in the schedule appended thereto as follows :

"Whether the action of the Management of Central Institute of Fresh Water Acquaculture, Kakinada in terminating the services of Shri Sunkar John is justified ? If not, what relief the workman is entitled to ?"

The said reference was registered as I.D. No. 63 of 1989 on the file of this Tribunal. After receiving the notices both parties put in there appearance and the petitioner-workman filed his claimed statement on 20-11-1989 and the Respondent Management filed the counter on 30-1-1990. The petitioner-workman also filed a rejoinder to the counter filed by the respondent.

2. The averments of the claim statement filed by the Petitioner-workman read as follows :

The complainant is working in respondent organisation which is the Central Government Institution as contingent labour for more than 5 years without any break in his service on monthly salary of Rs. 490.00 approximately. The Management without any reasons or prior notice to the complainant illegally removed from his services. The Respondent's management unauthorisedly and illegally threatened the complainant to sign on piece of paper. Before removing the complainant from his service neither the petitioner was given an opportunity to represent his case nor he was served with any notice before removing from his services, while the petitioner as usual attending his duty on 30th November, 1987. The management i.e. the office in-charge of respondents institution asked the petitioner to leave the service and he did not allow, the petitioner to attend his work. When the petitioner asked the Respondent, the reason why he is not allowed to his duties simply the respondent gave a vehement reply that his services are no longer required, hence he is removed except this oral order neither order or show cause notice was served on the petitioner. The Act of the respondent is illegal, arbitrary and at the same time violation of principles of natural justice, hence the petition. The complainant referred a petition before the Asstt. Labour Commissioner (Central) Visakhapatnam, which was numbered as B/1-80 ALX for conciliation proceedings. But the trials of the Asst. Labour Commissioner (Central) Visakhapatnam, were in vain. The Honourable Asst. Labour Commissioner (Central) Visakhapatnam sent his failure reports to the Ministry of Labour, Government of India, and the same was received on 20th September, 1988. The complainant was intimated regarding the same by the Ministry of Labour in the letter No. L-42012/103/88 D.II(B) dated

30th November, 1988. Again the complainant received an Order No. L-42012/103/88-D.II(B) Jated 31st August, 1989 and same was received by the complainant on 20th September, 1989. According to the directions given in the above said order the complainant prefers this statement of complainant before the Industrial Tribunal, Hyderabad. Hence this complaint. Therefore, the complainant is entitled to ask for reinstatement to his duties with back wages and also entitled to ask for regularisation of the services in the said management. Therefore, the complainant prays that the Honourable Tribunal may kindly be considered the case of the complainant by directing the respondent for reinstatement of the petitioner to his duties and also direct the respondent to pay the back wages to the complainant from the date of his removal from his services still he reinstates. Further, the complainant humbly submits, that the Respondent institution may be directed to regularise the services of the complainant as he completed more than years of his services. Otherwise the complainant will suffer a loss.

The averments of the counter filed by the Respondent read as follows :

It is respectfully submitted that the reference made by the Government of India by its letter bearing No. L-42012/103/88-D.II(B) dated 31st August, 1989 is illegal and without jurisdiction. The various allegations made in the claim petition are not correct and are therefore hereby denied. The petitioner is put to strict proof of the allegations made by him in his claim statement. It is submitted that the Respondent Institute viz., P. B. Unit of Central Institute of Fresh Water Aquaculture, Kakinada is a Centre of Central Institute of Fresh Water Aquaculture, Bhubaneswar which is one of the Institutes started by the Indian Council of Agricultural Research, New Delhi. It is submitted that Indian Council of Agricultural Research is headed by the Director General and various institutes are established by it. One of such Institutes is the Central Institute of Fresh Water Aquaculture, Bhubaneswar which is headed by the Directors. The Respondent is only a Centre of the Central Institute of Freshwater Aquaculture. The main object of the Respondent-Institute has been to develop technology for the production of GIANT Fresh Water Prawn seed. The Respondent Institute was established in the year 1974. The Respondent unit is headed by a Scientist and the Institutes' main work is research in fresh water prawn seed. It is submitted that as the main object of the Respondent Institute is only research, it is not an industry within the meaning of the Industrial Disputes Act and therefore the reference itself is illegal. It is submitted that the allegation of the petitioner that he was continuously working in the Respondent is not correct and is not based on any record. The petitioner was appointed only as a contingent labourer at the office of the Respondent with effect from 1st February, 1983 on daily wage basis as per Indian Council for Agricultural Research Rules with intermittent breaks vide letter No. PBU/CONT.L/83, dated 22nd January, 1983. It was made clear to the petitioner in the office order of appointment itself that his engagement was purely on temporary basis and the same would be liable to be terminated without any prior notice. It is submitted that the petitioner like some other casual labourers was only engaged on daily wages to assist the regular subordinate staff and help the other supervisory staff. It is submitted that each Scientist can handle only one project who is assisted by a set of regular staff and only when there was any additional work casual labour could be engaged for the period during which the additional work is available. Accordingly, the petitioner was engaged on casual basis on daily wages. The appointment of the petitioner on Casual basis as contingent labour was only for a period of three months and in every week there was one day break. Unless the Director of the Institute approves the engagement of any casual labour, the Respondent Institute cannot continue the services of the casual labourers. Every three months, a proposal was being sent to the Director, Central Institute of Fresh Water Aquaculture, Bhubaneswar for approving the extension of the casual labourers. The extension was sought from time to time whenever the research work was continued and whenever the services of the casual labour were required. It is submitted that the petitioner was engaged only to meet the unexpected additional work and the petitioner's appointment was never regular. It is submitted that the petitioner was fully aware of the fact that unless there is work and there is sanction from the Head Office at Bhubaneswar, his services cannot be continued by the Respondent-Institute. The Respondent can write to the

Head Office only when the work is available. It is submitted that the Petitioner has never worked continuously and his appointment is also not regular. The Petitioner's engagement was ended for a period of three months and as the work was available, it was extended from time to time. It is submitted that there was a break of one day in every week. As the designation shows, the petitioner was only a casual labourer on daily wages and he cannot have any right for regular employment. Strictly speaking his service is only for one day and the service comes to an end in the evening and again if work is available, it starts the next day. As the petitioner is not a regular employee and as he was appointed only on daily wage basis it is not necessary that any prior notice should be given to them. In fact, he was aware that there would not be any work after 30th November, 1987. As this appointment was only for a particular work and period it was already informed to him. The contention of the petitioner that a notice should have been given to him is not tenable. The petitioner was never forced to sign on any paper and in fact he was informed of the fact that his services would not be required after 1st December, 1987. It is submitted that the petitioner was involved in continuous theft of valuable research material (Bread Stock) and therefore, his services were dispensed with from 1st December, 1985 to 31st December, 1985. On humanitarian grounds again he was taken on duty from 1st January, 1986 with a serious verbal warning. In spite of this he was indulging in threatening attitude and incriminating talk against the officials of the institute. He was found to be detrimental to the stability and interest of the Unit. His work was far from satisfactory. It is submitted that the petitioner is not entitled to any regular employment and the petitioner was only a casual employee and casual employee will be engaged only where there is a work. The other allegations made in the claim statement are not correct. It is also submitted that in case of casual workman intact there will not be any termination, but they will only have to be informed that their services would not be required from a particular date. Accordingly, it was informed. Since there is no regular appointment and there is no termination, the petition itself is not maintainable. It is, therefore, prayed that this Hon'ble Tribunal may be pleased to dismiss the petition with costs of the Respondent.

4. The averments of the rejoinder filed by the Petitioner workman read as follows :

The workman herein submits that he has gone through the counter filed by the Management. The contents of them are neither true in fact nor tenable under law, except those contents which are specifically admitted herein. It is agreed by the Management in their counter that the workman herein worked from 1st February, 1983 to 30th November, 1987 as casual labourer. It is the case of the management that there were certain breaks. The workman submits that those breaks are only artificial breaks intended to deny the benefits under the Labour Legislature. Those breaks have to be ignored while computing the service. The workman submits that his service is blemishless and at no point of time he was served with any notices etc. The workman also submits that they were recruited through Employment Exchange. The Management is still continuing the services of the workman, who joined the service later to that of the workman. While retrenching the workman, the principle of 'last come first go' is not followed. The workman submits that the provisions of 25F of the I.D. Act has not been complied with while terminating the applicant. The termination of the applicant amounts to retrenchment within the meaning of Section 2(oo) of the I.D. Act. Non-compliance of these express mandatory provisions renders the retrenchment ad-initio-void and as per the judgements of the Supreme Court, a declaration shall follow that he is deemed to be in service with all attendant and consequential benefits. The workman submits that he is not employed anywhere for hire or reward all along. He could not secure any employment in spite of his best efforts. The workman further submits that the management is an 'Industry' within the meaning of Sec. 2(j) of the I.D. Act. It is engaged in production and distribution of bread for sale to the owners of Private tanks besides research. It is not correct to say that the activity carried on by it is not the activity in order to attract the definition of Industry. The last pay drawn by the workman is Rs. 450.00. Hence, the workman, therefore, prays that this Hon'ble Tribunal may be pleased to order reinstatement with all back wages, con-

tinuity of service etc., and pass such other relief or reliefs as this Hon'ble Tribunal may deem fit, just and necessary in the circumstances of the case.

5. The Petitioner workman examined himself as W.W. 1 and the Petitioner's side was closed. Exs. W 1 to W 3 were marked for the petitioner. No evidence was adduced for the Respondent and the Respondent's side was closed. No documents were marked for the Respondent.

6. The point for adjudication is whether the action of the Management of Central Institute Fresh Water Aquaculture, Kakinada in terminating the services of Sh. Snakar John is justified? If not, what relief the workman is entitled to?

7. POINT.—The undisputed facts are that the Petitioner-workman worked in the Respondent Organisation as contingent labourer on daily wage basis for more than 5 years and that the Petitioner-workman was not allowed to attend the duty from the end of 30th November, 1987. It is contended by the Respondent that the Respondent Organisation is purely a research institute and it does not fall under the definition of 'industry' as defined in Section 2(j) of the Industrial Disputes Act, 1947 and therefore the reference itself is wrong and this Tribunal cannot have any jurisdiction to adjudicate upon any matter and consequently the petitioner-workman is not entitled to seek any relief before this Tribunal and therefore the reference is liable to be rejected in limini.

8. It is contended by the learned counsel for the petitioner that the Respondent institute has been involved in the activity of production of prawn seeds and selling the same and therefore, the Respondent Institute is an industry squarely falls under the definition of 'Industry' as defined in Section 2(j) of the I.D. Act. In support of his contention the learned counsel for the Petitioner cited a ruling reported in Bangalore Water Supply v. A. Rajappa (1) wherein it was held :

"Industry" as defined in S. 2(j) has a wide import.

Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee (the direct and substantial element is chimerically), (iii) for the Production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale, prasada or food), prima facie, there is an 'Industry' in that enterprise.

Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

If the organisation is a trade or business it does not cease to be one because of philanthropy emanating from the undertaking.

Although S. 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over reach itself.

"Undertaking" must suffer a contextual and associational shrinkage as explained in AIR 1953 S.C. 58, so also, service, calling and the like. This yields the inference that all organised activity possessing the triple elements above mentioned, although not trade or business, may still be "Industry" provided the nature of the activity viz., the employer-employee basis, bears resemblance to what is found in trade or business. This takes into the fold of "Industry" undertakings, Callings and services adventures analogous to the carrying on of trade or business. All features, other hand the methodology of carrying on the activity viz., in organising the cooperation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy.

(1) AIR 1978 Supreme Court, page 548.

Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or other sense of activation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workman, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

The consequences are (i) professions, (ii) clubs, (iii) educational institutions, cooperatives, (iv) research institutes, (v) charitable projects and (vi) other kindred adventures, if they fulfil the triple tests listed above, cannot be exempted from the scope of S. 2(j).

A restricted category of professions, clubs, co-operatives and even gurukulas and little research labs, may qualify for exemption if in simple ventures, substantially and, going by the dominant nature criterion, substantively, no employees are entertained but in minimal matters marginal employees are hired without destroying the non-employee character of the unit.

It, in a pious or altruistic mission, many employ themselves free or for small honoraria or like return, mainly drawn by sharing in the purpose or cause, such as lawyers voluntarizing to run a free legal services clinic or doctors serving in their spare hours in a free medical centre or ashramitas working at the bidding of the holiness, divinity or like central personality and the services are supplied from or at nominal cost and those who serve are not engaged for remuneration or on the basis of master and servant relationship, then the institution is not an industry even if stray servants, manual or technical, are hired. Such elmsosynery or like undertakings alone are exempt, not other generosity compassion, developmental passion or project.

The dominant nature test :

Where complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not 'workman' or some departments are not productive of goods and services if isolated, even the, the predominant nature of the services and the integrated nature of the departments will be true test. The whole undertaking will be "Industry" although those who are not "Workmen" by definition may not benefit by the status.

Sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by Government of statutory bodies.

Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within S.2(j).

In the present case, it is the admitted case of the Respondent that the main object of the Respondent Institute has been to develop technology for the Production of giant fresh water prawn seed and it is not in dispute that the Respondent-Institute has been producing fresh water prawn seed and selling the same though, it is stated by the Respondent that the main work of the Respondent Institute is a research in fresh water prawn seed. So in view of my above discussion, I am of opinion that it cannot be said that the Respondent-Institute does not fall under the definition of 'Industry' as defined in Section 2(j) of the I.D. Act, and so I hold that the Respondent-Institute is an 'industry' as defined in Section 2(j) of the I.D. Act, 1947.

9. Admittedly, the Petitioner was not allowed to attend the duty from the end of 30th November, 1987 and thereby he was removed from service of the Respondent-Institute. The question is whether the removal of the petitioner from service from the end of November, 1987 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. The

petitioner examined himself as W.W.1 and deposed that he is the petitioner herein, that on 1st February, 1983 he joined the Respondent Institution at Kakinada as labourer, that the work entrusted to him for changing of water, that he worked continuously from 1983 to 1987, that there was no break to him from 1983 to 1987, that Ex. W1 is the statement showing the number of days in which he worked in the years 1983 to 1987, that Ex. W2 is the memo issued by the Officer-Incharge dated 22nd January, 1983 appointing him as labourer, that Ex. W3 is the certificate passed by the Officer-Incharge dated 4th March, 1983, showing him as labourer, that he joined the service through Employment Exchange, that there were no charges framed against him or the memo issued to him during the period he worked, that no notice was given to him at any time, that in 1987 when he went to the office he was informed orally that he need not come in future that his services were terminated, that but later on this work was done by one of his juniors Ram Mohan Rao and he was not sponsored by the Employment Exchange, that as per him there is still work and the vacancies, but they are not being allowed and entertained by the Management, that Rama Mohan Rao is still working there, and that hence he says that the orders of reinstatement may be issued with full wages that he is not gainfully employed anywhere and he is entirely depending upon his brother and that inspite of his best efforts he could not secure any employment anywhere.

10. It is clear from the evidence brought on record that the petitioner was appointed in 1983 and he has been continued in service by extending his service from time to time till the end of November, 1987. As seen from the evidence brought on record, it is clear that the petitioner-workman worked for more than 240 days continuously within the period of 12 months immediately prior to the date of his removal from service. Admittedly the petitioner worked continuously for more than 240 days within the period of 12 months immediately prior to the date of removal from service. So under the facts and circumstance of the case and in view of the evidence brought on record, I am of opinion that the removal of the petitioner from service from the end of November, 1987 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. Admittedly the Respondent did not comply with the mandatory provisions of Section 25-F of the I.D. Act before retrenchment of the petitioner from service. It is contended by the learned counsel for the petitioner that the removal of the petitioner from service amounts to retrenchment as defined in Section 2(oo) of the I.D. Act and that the retrenchment without compliance of the provisions of Section 25-F of the said Act gives right to the petitioner to be reinstated with full back wages and continuity of service. In support of his contention the learned counsel for the petitioner cited a ruling reported in GAMMON INDIA LTD. v. NIRANJAN DASS (1) wherein it was held:

"Whether the service of the employee of Company was terminated on account of recession and reduction in the volume of work of the Company, and the termination of service of the employee did not fall in any of the excluded categories the termination of his service would amount to retrenchment. That being so, when the pre-requisite for a valid retrenchment as laid down in Section 25-F was not complied with, the retrenchment bringing about termination of service of employee would be an initial void."

The learned counsel for the petitioner cited another ruling reported in R. Srinivasa Rao v. Labour Court (II) wherein it was held:

"Held.—The N.R.S.A. 'is an 'industry' under Section 2(j) of the Industrial Disputes Act, inasmuch as sovereign functions are to be restricted to administration of justice and maintenance of order and representation of crime or otherwise legislative powers, administration of the laws and the exercise of judicial power, and inasmuch as the activities of the N.R.S.A. do not come under these categories, it must be held that the N.R.S.A. is an 'industry' falling under Section 2(j).

(1) AIR 1984 Supreme Court, page 500.

(11) 1990 (1) Andhra Weekly Reporter, page 428.

The Parliament, per se did not intend to include casual labour on daily wages within the first part of sub-clause (bb) of Section 2(oo).

The main part of Sec. 2(oo) speaks of termination 'for any reason' as amounting to retrenchment. In the absence of clear intention, the first part of the Sub-Clause (bb) of Section 2(oo) cannot be interpreted to take in the termination of the services of the casual labour on daily wages. Per se termination of casual labour on daily wages is clearly outside the first part of sub-clause (bb) of Section 2(oo) and was never intended to be excluded from the definition of 'retrenchment'. The 'contract of employment' contemplated there is referable to contracts other than engagement as casual labour on daily wages.

In this case, the discontinuance of the petitioners who were casual labour on daily wages from 3rd August, 1984 till December, 1984 amounts to 'retrenchment' under Section 2(oo). As there is no dispute that they have the required number of days of service continuous as defined in Section 25-B and that the provisions of Section 25-F are not complied with, the petitioner will be entitled to reinstatement."

The learned counsel for the petitioner cited another ruling reported in B.H.E.L. Ltd., Baroda v. R.V.K. Rao (I) wherein it was held:

"I. Grade I Welder applied for leave which was granted. After the expiry of the leave the workman remained absent. Hence the management informed the workman that his name was struck off from the muster roll, which led to an industrial dispute. The Labour Court took the view that the striking off the name of workman from the muster roll amounted to retrenchment and since the workman was not offered a compensation it declared the retrenchment as null and void and directed reinstatement of the worker. Hence writ petition by the Management.

HELD.—The workman's services were terminated and his name was struck off the record of employees at a time when clause (bb) of Section 2(oo) was not on the statute book. It was inserted by the Amending Act 49 of 1984 with effect from 18th August, 1984, prior to the amendment, Section 2(oo) was interpreted in the cases of State Bank v. N. S. Mani (1976-1 LLJ-478) Hindustan Steel v. Labour Court (1977-11 LLJ-1), Santosh Gupta v. State Bank of Patiala (1980-1-LLJ-72), Management of K.S.R.T. Corporation v. M. Boniah (1984-11 LLJ-110) and Mohan Lal v. Management of Bharat Electronics Ltd. (1981-1 LLJ-70). The Supreme Court has interpreted Section 2(oo) as it stood prior to 18th August, 1984 to mean that termination contemplated in the section embraces not merely termination by act of employer, but the fact of termination, however produced. It is only thereafter that the legislature enacted further exclusion clause in the shape of clause (bb). Clause (bb) of Section 2(oo) is not retrospective in nature. It is a remedial provision and is prospective in nature and will apply only to those termination which take place after the provision was brought on the statute book.

II. Once it is found that Section 25-F is violated, retrenchment becomes non-est and a declaration has to be given that the workman has continued in the service of the employer. In case arising under Sec. 25-F, Section 11-A will not apply. When once termination is found to be null and void, there is no question of reinstatement, but only a declaration that the workman had continued in service de hors the termination which was violative of Section 25-F."

So in view of my above discussion and in view of the above referred rulings cited by the learned counsel for the petitioner, I hold that removal of the petitioner from service amounts to retrenchment and that the petitioner is entitled

(1) 1990 (1), LLJ, page 87 (High Court of Gujarat).

for reinstatement with full back wages and continuity of service. Hence I answer the point accordingly.

11. In the result, an Award is passed directing the Respondent-Institute to reinstate the petitioner into service forthwith, with full back wages and continuity of service. The Respondent is further directed to pay the back wages to the petitioner within one month from the date of publication of this Award, failing which the petitioner is entitled to realise the same with interest at 12 per cent per annum from the date of publication of this Award. There will be no order as to costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 30th day of September, 1991.

Appendix of Evidence

Witnesses examined for the Workman.

Witnesses examined for the Management.

Documents marked for the Workmen

- Ex. W1—Photostat copy of the statement showing service particulars of Sunker John worked in the years 1983 to 1987.
- Ex. W2/22-1-83—Photostat copy of the appointment order dated 22nd January, 1983 issued to Sunker John by the Officer-Incharge, Prawn Breeding, Kakinada.
- Ex. W3/4-3-83—Photostat copy of the certificate dated 4th March, 1983 issued to Sunker John by the Officer-Incharge, Prawn Breeding Unit, Kakinada.

Documents marked for the Management

NIL

G. KRISHNA RAO, Presiding Officer
[No. L-42012/103/88-D.II(B)(Pt.)]

का.प्र. 2976.—औद्योगिक विवाद अधिनियम 1947 ' (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेन्ट्रल इन्स्टीट्यूट आफ फ्रेश वाटर एक्वाकल्चर प्रॉन ब्रीडिंग के प्रबन्धमाल के संबद्ध नियोजकों और उनके कर्मचारों के बीच अन्तर्बंध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण हैदराबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 4-11-91 को प्राप्त हुआ था

S.O. 2976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Instt. of Fresh Water Aquaculture Prawn Breeding and their workmen, which was received by the Central Government on 4-11-91.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT
HYDERABAD

PRESENT :

Sri G. Krishna Rao, B.A., B.L., Industrial Tribunal.
THIRTIETH DAY OF SEPTEMBER, NINETEEN
HUNDRED NINETY ONE

INDUSTRIAL DISPUTE NO. 36 OF 1989

BETWEEN

The workman of Central Institute of Freshwater Aquaculture Prawn Breeding, Kakinada (A.P.)

Petitioner|Workman

AND

The Management of Central Institute of Fresh Water Aquaculture Prawn Breeding, Kakinada (AP).

Respondent|Management

This dispute is coming for final hearing before me in the presence of Sarvasri P. B. Vijaya Kumar, B. M. Patro and G. Srinivasa Rao, Advocates for the workmen and Sri P. Vithal Rao, Central Govt. Additional Standing Counsel for Labour Courts and Industrial Tribunal for the Management and upon perusing the material papers on record and having stood over for consideration till this day, the Court passed the following :

AWARD

This is a reference made by the Government of India, Ministry of Labour, by its Order No. L-42012/115/88-D.II (B) dated 2-5-1989 for adjudication of the dispute between the Management of Central Institute of Freshwater Aquaculture Prawn Breeding, Kakinada and their workmen setting forth the point for adjudication in the scheduled appended there to as follows :

"Whether the action of the management of Central Institute of Freshwater Aquaculture, Kakinada in terminating the services of Sri Md. Mohidulla is justified ? If not, what relief the same workman is entitled to ?"

The said reference was registered as I.D. No. 36 of 1989 on the file of this Tribunal. After receiving the notices both parties put in their appearance and the Petitioner-workman filed his claim statement on 24-5-1989 and the Respondent Management filed a counter on 31-7-1989. The petitioner-workman also filed a rejoinder to the counter filed by the Management.

2. The averments of the claim statement filed by the Petitioner-workman read as follows :

The complainant is working in the Respondent's Organisation which is the Central Government Institution as contingent labour for more than 8 years without any break in his service on monthly salary of Rs. 450.00 approximately. The management without any reasons or any prior notice to the complainant illegally removed from his service. The Respondent's Management institution unauthorisedly and illegally threatened the complainant to sign on piece of paper. Before removing the complainant from his services, neither the petitioner was given an opportunity to represent his case nor he was served with any notice before removing from his services. While the complainant as usual attending to his duty on 30-1-88, the complainant was called to the chambers of the Respondent's office and asked the complainant to sign on the paper and warned him unless he signs on the paper he would not allow the complainant to go to his house. The complainant, then surrounded by 10 unknown people were not having any business with the office. They are outsiders. The respondent brought all the said people to his chambers and called the complainant to his chambers and forced the complainant to sign on a piece of paper. When the complainant tried to read the contents of the paper he was abused by the respondent in filthy language and threatening to sign on the paper without any delay. Otherwise the above said unknown people who are there would see the end of the petitioner. The Respondent high handedly obtained the signatures of the petitioner on the paper in a state of coercion. Thus the complainant signed on paper on 30-1-88. Then the Respondent passed an order to the petitioner, that the petitioner need not come to the office by then onwards. Thus the way in which he was removed from his services. The act of the respondent is illegal and arbitrary, more contrary to the rules laid in the act and also against the principles of natural justice. The complainant preferred a petition before the Assistant Labour Commissioner (Central), Visakhapatnam, which was numbered as ALC/8/3/88 for conciliation proceedings. But the trails of the Asst. Labour Commissioner (Central), Visakhapatnam were in vain. The Honourable Asst. Labour Commissioner (Central) Visakhapatnam sent his failure reports to the Ministry of Labour, Government of India and the same was received on 20-9-88. The complainant was intimated, regarding the same by the Ministry of Labour in the letter No. L-42012/115/88-D. II (B) dated 16-12-88. Again the complainant received an order No. L-42012/115/88-D.II(B) dated 2-5-1989 and the same was received by the complainant on 6-5-1989. According to the direction given in the above said order, the com-

plainant refers this statement of complainant before the Industrial Tribunal, Hyderabad. Hence this complaint. Therefore the complainant is entitled to ask for re-instatement to his duties with back wages and also entitled to ask for regularisation of the services in the said management. Therefore, the complainant prays that the Hon'ble Tribunal may kindly be considered the case of the complainant by directing the respondent for re-instatement of the petitioner to his duties and also direct the respondent to pay the back wages to the complainant from the date of his removal from his services till he is reinstated. Further, the complainant humbly submits, the Respondent Institution may be directed to regularise the services of the complainant as he completed more than 8 years of the service. Otherwise the complainant will be put to severe and irreparable loss.

3. The averments of the counter filed by the Respondent read as follows:

It is respectfully submitted that the reference made by the Government of India by its letter bearing No. L-42012/115/88-D.II(B) dated 2-5-1989 is illegal and without jurisdiction. The various allegations made in the claim petition are not correct and are therefore hereby denied. The petitioner is put to strict proof of the allegations made by him in his claim statement. It is submitted that the Respondent Institute viz., Prawn Breeding Unit of Central Institute of Fresh Water Aquaculture, Kakinada is a Centre of Central Institute of Fresh Water Aquaculture, Bhubaneswar which is one of the Institutes started by the Indian Council of Agricultural Research, New Delhi. It is submitted that Indian Council of Agricultural Research is headed by the Director Central and various Institutions are established by it. One of such Institutes is the Central Institute of Fresh Water Aquaculture, Bhubaneswar which is headed by the Director. The Respondent is only a centre of the Central Institute of Fresh Water Aquaculture. The main object of the Respondent Institute has been to develop technology for the production of GIANT fresh water prawn seed. The Respondent Institute was established in the year 1974. The Respondent Unit is headed by a Scientist and the Institutes main work is research in fresh water prawn seed. It is submitted that as the main object of the Respondent Institute is only research, it is not an 'industry' within the meaning of the Industrial Disputes Act and therefore the reference itself is illegal. It is submitted that the allegation of the petitioner that he is continuously working in the Respondent is not correct and is not based on any record. The Petitioner was appointed only as a contingent labourer at the office of the Respondent with effect from 1-1-1981 on daily wage basis as per Indian Council for Agricultural Research Rules with intermittent breaks. The petitioner was appointed by an order of the Respondent vide No. PPU/Cont.L/82 dated 24-12-1981. It was made clear to the petitioner in the office order of appointment itself that his engagement was purely on temporary basis and the same would be liable to be terminated without any prior notice. It is submitted that the petitioner like some other casual labourers was only engaged on daily wages to assist the regular subordinate staff and help the other supervisory staff. It is submitted that each Scientist can handle only one project who is assisted by a set of regular staff and only when there was any additional work casual labourer could be engaged for the period during which the additional work is available. Accordingly, the petitioner was engaged on casual basis on daily wages. The appointment of the petitioner on casual basis as contingent labour was only for a period of three months and in every week there was one day break. Unless the Director of the Institute approves the engagement of any casual labour, the respondent-Institute cannot continue the services of the casual labourers. Every three months, a proposal was being sent to the Director, Central Institute of Fresh Water Aquaculture, Bhubaneswar for approving the extensions of the casual labourers. The extension was sought from time to time whenever the research work was continued and whenever the services of the casual labour were required. It is submitted that the petitioner was engaged only to meet the unexpected additional work and the petitioner's appointment was never regular. It is submitted that the petitioner was fully aware of the fact that unless there is work and there is sanction

from the Head Office at Bhubaneswar, his services cannot be continued by the Respondent-Institute. The Respondent can write to the Head Office only when the work is available. It is submitted that there was no sanction to continue the services of the casual labour after 31-1-1988. Accordingly, all the casual labourers were informed of it through a circular and all the casual labourers accepted it and acknowledged the same. It is submitted that even at the time of initial engagement and also at subsequent extensions and also when it was informed that there was no work and their services were no more required, they were explained the circumstances and also the terms and conditions under which they were being engaged time to time in Telugu. It is submitted that the petitioner has never worked continuously and his appointment is also not regular. The petitioner's engagement was ended for a period of three months and as the work was available, it was extended from time to time. It is submitted that there was a break of one day in every week. As the designation shows, the petitioner was only a casual labourer on daily wages and he cannot have any right for regular employment. Strictly speaking his service is only for one day and the service comes to an end in the evening, and again if work is available, it starts the next day. As the petitioner is not a regular employee and as he was appointed only on daily wage basis, it is not necessary that any prior notice should be given to them. In fact, he was aware that there would not be any work after 31-1-1988. As his appointment was only till 31-1-1988 and it was already informed to him, the contention of the petitioner that a notice should have been given to him is not tenable. The allegation of the petitioner that he was threatened by the Respondent and also by unknown people is absolutely false and is created. The petitioner was never forced to sign on any paper and in fact he was informed of the fact that his services would not be required after 31-1-1988. Having received a copy of the circular, he had acknowledged it. This allegation is made by the petitioner for the first time before this Hon'ble Court. It is not his case even before the Assistant Commissioner of Labour-cum-Conciliation Officer. It is submitted that the petitioner is not entitled to any regular employment and the petitioner was only a casual employee and casual employee will be engaged only when there is a work. The other allegations made in the claim statement are not correct. It is also submitted that in case of casual workmen in fact there will not be any termination, but they will only have to be informed that their services would not be required from a particular date. Accordingly, it was informed. Since there is no regular appointment and there is no termination, the petition itself is not maintainable. It is, therefore, prayed that this Hon'ble Tribunal may be pleased to dismiss the petition with costs of the Respondent.

4. The averments of the rejoinder filed by the Petitioner-workmen read as follows:

The workman herein submits that he has gone through the counter filed by the Management. The contents of them are neither true in fact nor tenable under law, except those contents which are specifically admitted herein. It is agreed by the Management in their counter that the workman herein worked from 1-1-1982 to 31-1-1988 as Casual labourer. It is the case of the management that there were certain breaks. The workman submits that those breaks are only artificial breaks intended to deny the benefits under the Labour Legislation. Those breaks have to be ignored while computing the service. The workman submits that his service is blemishless and at no point of time he was served with any notice etc. The workman also submits that they are recruited through Employment Exchange. The management is still continuing the services of the workman who joined the service later to that of the workman. While retrenching the workman, the principle of 'last come first go' is not followed. The workman submits that the provisions of 25F of the I.D. Act has not been complied with while terminating the applicant. The termination of the applicant amounts to retrenchment within the meaning of Section 2(oo) of the I.D. Act. Non-compliance of these express mandatory provisions renders the retrenchment ad-iniitio void and as per the judgments of the Supreme Court, a declaration shall follow that he is deemed to be in service with all attendant and consequential benefits. The workman sub-

mits that he is not employed anywhere for hire or reward all along. He could not secure any employment in spite of his best efforts. The workman further submits that the management is an 'Industry' within the meaning of Sec. 2(j) of the I.D. Act. It is engaged in production and distribution of breed for sale to the owner of private tanks besides research. It is not correct to say that the activity carried on by it is not the activity in order to attract the definition of industry. The last pay drawn by the workman is Rs. 450.00. Hence, the workman, therefore, prays that this Hon'ble Tribunal may be pleased to order reinstatement with all back wages, continuity of service etc. and pass such other relief or reliefs as this Hon'ble Tribunal may deem fit, just and necessary in the circumstances of the case.

5. The workman examined himself as W.W.1 and the petitioner's side was closed. Exs. W1 and W2 were marked for the petitioner-workman. M.W.1 was examined for the Respondent and the Respondent side was closed. Exs. M1 and M2 were marked for the Respondent-Management.

6. The point for adjudication is whether the action of the management of Central Institute of Fresh Water Aquaculture Prawn Breeding, Kakinada in terminating the services of Sri Md. Mohidullah is justified? If not, what relief the same workman is entitled to?

7. POINT : The undisputed facts are that the Petitioner-workman worked in the Respondent Organisation as contingent labourer on daily wage basis for more than 6 years and that the petitioner-workman was not allowed to attend the duty from the end of January, 1988. It is contended by the Respondent that the Respondent Organisation is purely a research institute and it does not fall under the definition of 'industry' as defined in Section 2(j) of the Industrial Disputes Act, 1947 and therefore the reference itself is wrong and this Tribunal cannot have any jurisdiction to adjudicate upon any matter and consequently the petitioner-workman is not entitled to seek any relief before this Tribunal and therefore the reference is liable to be rejected in limine.

8. It is contended by the learned counsel for the petitioner that the Respondent Institute has been involved in the activity of production of prawn seeds and selling the same and therefore, the Respondent Institute is an industry squarely falls under the definition of 'industry' as defined in Section 2(j) of the I.D. Act. In support of his contention the learned counsel for the Petitioner cited a ruling reported in *Bangalore Water Supply v. A. Rajappa* (1) wherein it was held :

"Industry" as defined in S. 2(j) has a wide import.

Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee (the direct and substantial element is chimerical), (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making on a large scale, prasada or food), prima facie, there is an 'industry' in that reterprise.

Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

The true focus is functional and the decisive test is the nature of the activity with social emphasis on the employer-employee relations.

If the organisation is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Although S. 2(j) uses words of the widest amplitude in its two limbs their meaning cannot be magnified to over reach itself.

(1) AIR 1978 Supreme Court, page 548.

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"Undertaking" must suffer a contextual and associational shrinkage as explained in AIR 1953 S.C. 58, so also, service, calling and the like. This yields the inference that all organised activity possessing the triple elements above mentioned, although not trade or business, may still be 'Industry' provided the nature of the activity viz. the employer employee basis, bears resemblance to what is found in trade or business. This takes into the fold of "Industry" undertakings, calling and services adventures analogous to the carrying on of trade or business. All features, other hand the methodology of carrying on the activity viz., in organising the cooperation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy.

Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or other sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial dispute between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

The consequences are (i) professions, (ii) clubs (iii) educational institutions, cooperatives, (iv) research institutes, (v) charitable projects and (vi) other kindred adventures, if they fulfil the triple tests listed above cannot be exempted from the scope of S. 2(j).

A restricted category of professions, clubs, co-operatives and even gurukulas and little research labs, may qualify for exemption if in simple ventures, substantially and, going by the dominant nature criterion, substantively, no employees are entertained but in minimal matters marginal employees are hired without destroying the non-employee character of the unit.

If, in a pious or altruistic mission, many employ themselves free or for small honoraria or like return, mainly drawn by sharing in the purpose or cause, such as lawyers volunteering to run a free legal services clinic or doctors serving in their spare hours in a free medical centre or ashramites working at the bidding of the holiness, divinity or like central personality, and the services are supplied from or at nominal cost and those who serve are not engaged for remuneration or on the basis of master and servant relationship, then the institution is not an industry even if stray servants, manual or technical, are hired. Such almsgiving or like undertakings alone are exempt, not other generosity, compassion, developmental passion or project.

The dominant nature test :

Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not "workmen" or some departments are not productive of goods and services. If isolated, even then, the predominant nature of the services and the integrated nature of the departments will be true test. The whole undertaking will be "industry" although those who are not "workmen" by definition may not benefit by the status.

Sovereign functions, strictly understood (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by Government or statutory bodies.

Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable then they can be considered to come within S. 2(j).

In the present case, it is the admitted case of the Respondent that the main object of the Respondent Institute has

been to develop technology for the production of giant fresh water prawn seed and it is not in dispute that the Respondent-Institute has been producing fresh water prawn seed and selling the same though, if stated by the Respondent that the main work of the Respondent Institute is research in fresh water prawn seed. On the other hand M.W.1 admitted during the course of cross examination that the seeds of the new breeds invented in the research of the prawn will be sold to the private parties who raise prawn culture and they also supply to the Government Department free of cost. So in view of my above discussion, I am of opinion that it cannot be said that the Respondent Institute does not fall under the definition of 'industry' as defined in Section 2(j) of the I.D. Act. In view of my above discussion and in view of the ruling of the Supreme Court above referred to and cited by the learned counsel for the Petitioner, I hold that the Respondent-Institute is an 'industry' as defined in Section 2(j) of the I.D. Act, 1947.

9. Admittedly, the petitioner was not allowed to attend the duty from the end of January, 1988 and thereby he was removed from service of the Respondent-Institute. The question is whether the removal of the petitioner from service from the end of January, 1988 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. The petitioner examined himself as W.W.1 and deposed that on 1st January, 1982 he joined the Respondent Institute at Kakinaḍa as labourer, that the work entrusted to him for changing of water, that he worked continuously from 1982 to 1988, that there was no break to him from 1982 to 1988, that Ex. W1 is the statement showing the number of days on which he worked in the years 1982 to 1988, Ex. W2 is a memo issued to him by the officer-in-charge on 7th December, 1981, that he joined the service through Employment Exchange, that there were no charges framed against him or memos issued to him during the period he worked, that no notice was given to him at any time, that in 1988 when he went to the office he was informed orally that he need not come in future that his services were terminated, that but later on his work was done by one of his juniors Rama Mohan Rao and he was not an Employment Exchange candidate, that as per him there is still work and the vacancies but they are not being allowed and entertained by the Management, that Rama Mohan Rao is still working there and that hence he says that the orders of reinstatement may be issued with full wages that he is not gainfully employed anywhere and he is entirely depending upon his father-in-law and that inspite of his best efforts he could not secure any employment any where.

10. M.W.1 who was examined on behalf of the Respondent-Institute deposed that he has been working as Principal Scientist-in-charge of the Respondent Prawn Breeding Unit, since 1974, that he knows the Petitioner-workman and that he was appointed as casual labourer on daily wage rate @ Rs. 6.50 rs. per day for a period of three months from 1st January, 1982 with a day break per week and he worked under Dr. K. J. Rao, the Project Leader of Project No. FA/A/23, during that period of three months, that the said project was continued till 31st December, 1987 on which date the said project was closed, that on the closure of the Scheme Dr. K. J. Rao was transferred to Head quarter at Bhubaneswar, that the services of the petitioner was continued till 31st December, 1987 under different orders of extension each for three months on the sanction orders issued by the Director of the Central Institute Fresh Water Aquaculture, Bhubaneswar, with the similar conditions as stated in his first appointment order that the service of the petitioner was continued till 31st January, 1988 though the Project was closed w.e.f. 1st January, 1988, as the last extension was given till 31st January, 1988 in the last extension order, that the Director of Central Institute of Fresh Water Aquaculture is the authority to approve the project and close the same and the Director of the Project has to follow the instructions of the Director, Central Institute of Fresh Water Aquaculture which was under the control of Indian Council of Agricultural Research, New Delhi, that after closing the Project, the contingent workman were discontinued from being engaged including the petitioner, that one project which is headed by him (M.W.1) is being continued and all other projects were closed, that there are no vacancies of any posts for the contingent labour in his project and that all the projects relate to research work on prawns. During the course of cross-examination, M.W.1

stated that before terminating the services of the petitioner or disengaging him with effect from 31st January, 1988, no one month's notice was issued to the petitioner nor did he pay one month's wages to the petitioner in lieu of not issuing one month's notice, nor did he pay any retrenchment compensation to the petitioner.

11. It is clear from the evidence brought on record that the petitioner was appointed in 1982 and he has been continued in service by extending his service from time to time till the end of January, 1988. As seen from the evidence brought on record, it is clear that the Petitioner-workman worked for more than 240 days continuously within the period of 12 months immediately prior to the date of his removal from service. Admittedly the petitioner worked continuously for more than 240 days within the period of 12 months immediately prior to the date of removal from service. So under the facts and circumstances of the case and in view of the evidence brought on record, I am of opinion that the removal of the petitioner from service from the end of January, 1988 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. Admittedly the Respondent did not comply with the mandatory provisions of Section 25-F of the I.D. Act before retrenchment of the petitioner from service. It is contended by the learned counsel for the petitioner that the removal of the petitioner from service amounts to retrenchment as defined in Section 2(oo) of the I.D. Act and that the retrenchment without compliance of the provisions of Section 25-F of the said Act gives right to the petitioner to be reinstated with full back wages and continuity of service. In support of his contention the learned counsel for the petitioner cited a ruling reported in *Ganeshon India Ltd. v. Niranjan Dass (I)* wherein it was held :

"Whether the service of the employee of Company was terminated on account of recession and reduction in the volume of work of the company, and the termination of service of the employee did not fall in any of the excluded categories, the termination of his service would amount to retrenchment. That being so, when the pre-requisite for a valid retrenchment as laid down in Section 25-F was not complied with, the retrenchment bringing about termination of service of employee would be ab initio void."

The learned counsel for the petitioner cited another ruling reported in *R. Srinivasa Rao v. Labour Court (I)* wherein it was held :

"Held —The N.R.S.A. is an 'industry' under Section 2(i) of the Industrial Disputes Act. Inasmuch as sovereign functions are to be restricted to administration of justice and maintenance of order and representation of crime or otherwise legislative powers, administration of the laws and the exercise of judicial power, and inasmuch as the activities of the N.R.S.A. do not come under these categories, it must be held that the N.R.S.A. is an 'industry' falling under Section 2(i). The Parliament, per se did not intend to include casual labour on daily wages within the first part of sub-clause (bb) of Sec. 2(oo).

The main part of Section 2(oo) speaks of termination 'for any reason' as amounting to retrenchment. In the absence of clear intention, the first part of the sub-clause (bb) of Section 2(oo) cannot be interpreted to take in the termination of the services of the casual labour on daily wages. Per se termination of casual labour on daily wages is clearly outside the first part of sub-clause (bb) of Section 2(oo) and was never intended to be excluded from the definition of 'retrenchment'. The 'contract of employment' contemplated there is referable to contracts other than engagement as casual labour on daily wages.

In this case, the discontinuance of the petitioners who were casual labour on daily wages from 3rd August, 1984 till December, 1984 amounts to 'retrenchment'

(M) AIR 1984 Supreme Court page 500.

(I) 1990 (I) Andhra Weekly Reporter page 428.

under Section 2(oo). As there is no dispute that they have the required number of days of service continuous as defined in Section 25-B and that the provisions of Section 25-F are not complied with, the petitioner will be entitled to reinstatement."

The learned counsel for the petitioner cited another ruling reported in B.H.E.L. Ltd., Baroda v. R. V. K. Rao (II) wherein it was held:

"1. Grade I Welder applied for leave which was granted. After the expiry of the leave the workman remained absent. Hence the management informed the workman that his name was struck off from the muster roll, which led to an industrial dispute. The Labour Court took the view that the striking off the name of workman from the muster roll amounted to retrenchment and since the workman was not offered a compensation it declared the retrenchment as null and void and directed reinstatement of the worker. Hence writ petition by the management.

Held.—The workman's services were terminated and his name was struck off the record of employees at a time when clause (bb) of Section 2(oo) was not on the statute book. It was inserted by the Amending Act 49 of 1984 with effect from 18th August, 1984. Prior to the amendment, Section 2(oo) was interpreted in the cases of State Bank v. N. S. Mani (1976-1 LLJ-476), Hindustan Steel v. Labour Court (1977-1 LLJ-1) Santosh Gupta v. State Bank of Patiala (1980-1 LLJ-72), Management of K.S.R.I. Corporation v. M. Boman (1984-1 LLJ-110) and Monan Lal v. Management of Bharat Electronics Ltd. (1981-1 LLJ-70). The Supreme Court has interpreted Section 2(oo) as it stood prior to 18th August, 1984 to mean that termination contemplated in the section embraces not merely termination by act of employer, but the fact of termination, however produced. It is only thereafter that the legislature enacted further exclusion clause in the shape of clause (bb). Clause (bb) of Section 2(oo) is not retrospective in nature. It is a remedial provision and is prospective in nature and will apply only to those terminations which take place after the provision was brought on the statute book.

11. Once it is found that Section 25-F is violated, retrenchment becomes non-est and a declaration has to be given that the workman has continued in the service of the employer. In case arising under Section 25-F, Section 11-A will not apply. When once termination is found to be null and void, there is no question of reinstatement, but only a declaration that the workman had continued in service de hors the termination which was violative of Section 25-F."

So in view of my above discussion and in view of the above referred rulings cited by the learned counsel for the Petitioner, I hold that removal of the petitioner from service amounts to retrenchment and that the petitioner is entitled for reinstatement with full back wages and continuity of service. Hence I answer the point accordingly.

12. In the result, an Award is passed directing the Respondent-institute to reinstate the Petitioner into service forthwith, will full back wages and continuity of service. The Respondent is further directed to pay the back wages to the petitioner within one month from the date of publication of this Award, failing which the petitioner is entitled to realise the same with interest at 12 per cent per annum from the date of publication of this Award. There will be no order as to costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 30th day of September, 1991.

Appendix of Evidence

Witnesses examined for the workmen

W.W.1—Md. Mohiuddullah.

(II) 1990 (I) LLJ, page 87 (High Court of Gujarat).

Witnesses examined for the Management :

M.W.1—Dr. M. Subramanyam.

Documents marked for the workmen

Ex. W1—Photostat copy of the statement showing the service particulars of Momdullah worked from 1982 to 1988.

Ex. W2/7-12-81—Photostat copy of the Memo. dated 7th December, 1981 issued to Md. Momdulla by the Officer In-charge.

Documents marked for the Respondent-management

Ex. M1/7-4-90—Copy of the engagement of 3 contingent labourers issued by the Administrative Officer, Central Inland Fisheries Research Institute (ICAR) Barackpur, West Bengal.

Ex. M2/24-12-81—Copy of the Memo. No. PBU/COM. C/81-998-1001 dated 24th January, 1981 issued by the Officer in-charge, Prawn Breeding Centre, Kakinaada.

G. KRISHNA RAO, Presiding Officer
(No. L-42012/115/88-D.II(B)(Pt.))

का.मा. 2977. --औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में केंद्रीय सरकार सेन्ट्रल इन्स्टीट्यूट ऑफ फ्रेश वाटर एक्वाकल्चर प्रांति कृषि के प्रवर्धन के मन्त्र निवाजकों और उनके कर्मचारों के बीच अनुबंध में निर्वहण अत्याधिक विवाद में अत्याधिक आधिकारण ह्वेराबाद के पंचवट को प्रकाशित करता है जो केंद्रीय सरकार का 4-11-91 को प्राप्त हुआ था।

S.O. 2977.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Inst. of Fresh Water Aquaculture, Prawn Breeding and their workmen, which was received by the Central Government on 4-11-91.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri G. Krishna Rao, B.A., B.L., Industrial Tribunal,
Thirteenth day of September Nineteen Hundred
Ninety one

INDUSTRIAL DISPUTE NO. 38 OF 1989

BETWEEN

The Workman of Central Institute of Freshwater Aquaculture, Prawn Breeding Kakinaada (A.P.)

.. Petitioner/Workmen

AND

The Management of Central Institute Fresh Water Aquaculture, Prawn Breeding Kakinaada (A. P.)

... Respondent/Management.

This dispute is coming for final hearing before me in the presence of Sarvasri P. B. Vijayawa Kumar, B. M. Patro and G. Srinivas Rao, Advocates for the Workmen and Sri P. Vithal Rao, Central Govt. Additional Standing Counsel for Labour Courts and Industrial Tribunal for the Management and upon perusing the material papers on record and having stood over for consideration till this day, the Court passed the following :

AWARD

This is a reference made by the Government of India, Ministry of Labour, by its Order No. L-42012/102/88-D.II (B) dated 2-5-1989 for adjudication of the dispute between the Management of Central Institute of Freshwater Aquaculture

culture Prawn Breeding, Kakinada and their workmen setting forth the point for adjudication in the scheduled appended thereto as follows :

"Whether the action of the Management of Central Institute of Freshwater Aquaculture, Kakinada in terminating the services of Sri Pontagani Rajasekhar is justified ? If not, to what relief the said workman is entitled ?"

The said reference was registered as I.D. No. 38 of 1989 on the file of this Tribunal, after receiving the notices both parties put in their appearance and the Petitioner-workman filed his claim statement on 24-5-1989 and the Respondent Management filed a counter on 31-7-1989. The Petitioner-workmen also filed a rejoinder to the counter filed by the Management.

2. The averments of the claim statement filed by the Petitioner-workman read as follows :

The complainant is working in the respondents organisation which is the Central Government Institution as contingent labour for more than 6 years without any break in his service on monthly salary of Rs. 450.00 approximately. The management without any prior notice to the complainant illegally removed from his service. The Respondent Management institution unauthorisedly and illegally threatened the complainant to sign on piece of paper. Before removing from the services neither the petitioner was given an opportunity to represent his case nor he was served with any notice before removing from his services. While the complainant as usual attending his duty on 30-1-88. The complainant was called to the chambers of the Respondent's office and asked the complainant to sign on the paper and warned him unless, he signs on the paper he would not allow the complainant to go to his house. The complainant then was surrounded by 10 unknown people, who were not having any business with the office. They are outsiders. The Respondent brought all the said people to his chambers and called the complainant to his chambers and forced the complainant to sign on a piece of paper. Then the complainant tried to read the contents of the paper he was abused by the Respondents in filthy language and threatening to sign on the paper without any delay. Otherwise the above said unknown people who are there would see the end of the Petitioner. The respondent high handedly obtained the signatures of the petitioner on the paper in a state of coercion. Thus the complainant signed on a paper on 30-1-88. Then the respondent passed an order to the petitioner, that the petitioner need not come to the office by then onwards. Thus the way in which he was removed from his services. The act of the Respondent is illegal and arbitrary more contrary to the rules laid in the act and also against the principles of natural justice. The complainant preferred a petition before the Asst. Labour Commissioner (Central), Visakhapatnam which was numbered as 8/4/88 ALX for conciliation proceedings. But the trials of the Asst. Labour Commissioner (Central) Visakhapatnam were in vain. The Honourable Asstt. Labour Commissioner (Central) Visakhapatnam sent the reports to the Ministry of Labour, Government of India and the same was received on 20-9-88. The complainant was initiated regarding the same by the Ministry of Labour in the letter No. L-42012/102/88-D.II(B) dated 2-5-1989 against the complainant received an order No. L-42012/102/88-D.II(B) dt. and the same was received by the complainant on 6-5-89. According to the directions given in the above said order, the complainant prefers this statement of complainant before the Industrial Tribunal, Hyderabad. Hence this complaint. Therefore, the complainant is entitled to ask for reinstatement to his duties with back wages and also entitled to ask for regularisation of the services in the said management. Therefore, the complainant prays that the Hon'ble Tribunal may kindly be considered the case of the complainant by directing the Respondent for reinstatement of the petitioner to his duties and also direct the Respondent to pay the back wages to the complainant from the date of his removal from his services till he is reinstated. Further, the complainant humbly submits that the Respondent Institution may be directed to regularise the services of the complainant as he completed more than 6 years service. Otherwise the complainant will suffer a loss.

3. The averments of the counter filed by the Respondent read as follows :

It is respectfully submitted that the reference made by the Government of India by its letter bearing No. L-42012/115/88-D.II(B) dated 2-5-1989 is illegal and without jurisdiction. The various allegations made in the claim petition are not correct and are therefore hereby denied. The petitioner is put to strict proof of the allegations made by him in his claim statement. It is submitted that the Respondent Institute viz. Prawn Breeding Unit of General Institute of Fresh Water Aquaculture, Kakinada is a Centre of Central Institute of Fresh Water Aquaculture, Bhubaneswar which is one of the Institutes started by the Indian Council of Agricultural Research, New Delhi. It is submitted that Indian Council of Agricultural Research is headed by the Director General and various institutes are established by it. One of such Institutes is the Central Institute of Freshwater Aquaculture, Bhubaneswar which is headed by the Director. The Respondent is only a Centre of the Central Institute of Freshwater Aquaculture. The main object of the Respondent-Institute has been to develop Technology for the production of GLANT fresh water prawn seed. The Respondent institute was established in the year 1974. The Respondent Unit is headed by a Scientist and the Institute's main work is research in fresh water prawn seed. It is submitted that as the main object of the Respondent Institute is only research, it is not an industry within the meaning of the Industrial Disputes Act and therefore the reference itself is illegal. It is submitted that the allegation of the petitioner that he continuously working in the Respondent is not correct and is not based on any record. The petitioner was appointed only as a contingent labourer at the office of the Respondent with effect from the F. N. of 1-4-1982 on daily wage basis as per the Indian Council for Agricultural Research Rules with intermittent breaks. The petitioner was appointed by an order of the Respondent No. PPU/Cont./82 dated 29-3-1982. It was made clear to the petitioner in the office order of appointment itself that his engagement was purely on temporary basis and the same would be liable to be terminated without any prior notice. It is submitted that the petitioner like some other casual labourers was only engaged on daily wages to assist the regular subordinate staff and help the other supervisory staff. It is submitted that each Scientist can handle only one Project who is assisted by a set of regular staff and only when there was any additional work casual labour could be engaged for the period during which the additional work is available. Accordingly, the petitioner was engaged on casual basis on daily wages. The appointment of the petitioner on casual basis as contingent labour was only for a period of three months and in every week there was one day break. Unless the Director of the Institute approves the engagement of any casual labour, the Respondent institute cannot continue the service of the casual labourers. Every three months, a proposal was being sent to the Director General Institute of Fresh Water Aquaculture, Bhubaneswar for approving the extension of the casual labourers. The extension was sought from time to time whenever the research work was continued and whenever the services of the casual labour were required. It is submitted that the petitioner was engaged only to meet the unexpected additional work and the petitioner's appointment was never regular. It is submitted that the petitioner was fully aware of the fact that unless there is work and there is sanction from the Head Office at Bhubaneswar, his services cannot be continued by the Respondent Institute. The Respondent can write to the Head Office only when the work is available. It is submitted that there was no sanction to continue the services of the casual labour after 31-1-1988. Accordingly, all the casual labourers were informed of it through a circular and all the casual labourers accepted it and acknowledged the same. It is submitted that even at the time of initial engagement and also at subsequent extensions and also when it was informed that there was no work and their services were no more required, they were explained the circumstances and also the terms and conditions under which they were being engaged from time to time in Telugu. It is submitted that the petitioner has never worked continuously and his appointment is also not regular. The petitioner's engagement was ended for a period of three months and as the work was available, it was extended from time to time. It is submitted that there was a break of one day in every work. As the designation shows, the petitioner was only a casual labourer in daily wages and he cannot have any right for regular employment. Strictly speaking his service is only for one day and the service comes to an end in the evening and again if work is available, it starts the next day. As the

petitioner is not a regular employee and as he was appointed only on daily wages basis, it is not necessary that any prior notice should be given to them. Infact, he was aware that there would not be any work after 31-1-1988. As his appointment was only till 31-1-1988 and it was already informed to him, the contention of the petitioner that a notice should have been given to him is not tenable. The allegation of the petitioner that he was threatened by the Respondent and also by 10 unknown people is absolutely false and is created. The petitioner was never forced to sign on any paper and infact he was informed of the fact that his services would not be required after 31-1-1988. Having received a copy of the circular, he had acknowledged it. This allegation is made by the petitioner for the first time before this Hon'ble Court. It is not his case even before the Assistant Commissioner of Labour-cum-Conciliation Officer. It is submitted that the petitioner is not entitled to any regular employment and the petitioner was only a casual employee and casual employee will be engaged only when there is a work. The other allegations made in the claim statement are not correct. It is also submitted that in case of casual workman infact there will not be any termination, but they will only have to be informed that their services would not be required from a particular date. Accordingly, it was informed. Since there is no regular appointment and there is no termination, the petition itself is not maintainable. It is, therefore, prayed that this Hon'ble Tribunal may be pleased to dismiss the petition with costs of the Respondent.

4. The averments of the rejoinder filed by the petitioner-workman read as follows :

The workman herein submits that he has gone through the counter filed by the management. The contents of them are neither true in fact nor tenable under law, except those contents which are specifically admitted herein. It is agreed by the Management in their counter that the workman herein worked from 1-4-82 to 31-1-88 as casual labourer. It is the case of the Management that there were certain breaks. The workman submits that these breaks are only artificial breaks intended to deny the benefits under the Labour Legislation. Those breaks have to be ignored while computing the service. The workman submits that his service is blemishless and at no point of time he was served with any notice etc. The workman also submits that they were recruiting through Employment Exchange. The Management is still continuing the services of the workman, who joined the service later to that of the workman. While retrenching the workman, the principle of 'last come first go' is not followed. The workman submits that the provision of S. 25F of the I.D. Act has not been complied with while terminating the applicant. The termination of the applicant amounts to retrenchment within the meaning of Section 2(o) of the I.D. Act. Non-compliance of these express mandatory provisions render the retrenchment ab-initio-void and as per the judgements of the Supreme Court, a declaration shall follow that he is deemed to be in service with all attendant and consequential benefits. The workman submits that he is not employed anywhere for hire or reward all along. He could not secure any employment in spite of his best efforts. The workman further submits that the management is an 'industry' within the meaning of Sec. 2(j) of the I.D. Act. It is engaged in production and distribution of breed for sale to the owners of private tanks besides research. It is not correct to say that the activity carried on by it is not the activity in order to attract the definition of Industry. The last pay drawn by the workman is Rs. 450.00. Hence, the workman, therefore, prays that this Hon'ble Tribunal may be pleased to order reinstatement with all back wages, continuity of service etc., and pass such other relief or reliefs as this Hon'ble Tribunal may deem fit, just and necessary in the circumstances of the case.

5. The workman examined himself as W.W. 1 and the petitioner's side was closed. Exs. W1 and W2 were marked for the petitioner-workman. No evidence was adduced for the Respondent and the Respondent's side was closed. No documents were marked for the Respondent.

6. The point for adjudication is whether the action of the Management of Central Institute of Freshwater Aquaculture, Kakinada in terminating the services of Sri Pantagani Rajasekhar is justified? If not, what relief the said workman is entitled to ?

7. POINT : The undisputed facts are that the petitioner-workman worked in the Respondent Organisation as contingent labourer on daily wages basis for more than 6 years and that the Petitioner-workman was not allowed to attend the duty from the end of January, 1988. It is contended by the Respondent that the Respondent Organisation is purely a research institute and it does not fall under the definition of 'industry' as defined in Section 2(j) of the Industrial Disputes Act, 1947 and therefore the reference itself is wrong and this Tribunal cannot have any jurisdiction to adjudicate upon any matter and consequently the petitioner-workman is not entitled to seek any relief before this Tribunal and therefore the reference is liable to be rejected in limine.

8. It is contended by the learned counsel for the petitioner that the Respondent Institute has been involved in the activity of production of prawns seeds and selling the same and therefore, the Respondent Institute is an industry squarely falls under the definition of 'industry' as defined in Section 2(j) of the I. D. Act. In support of his contention the learned counsel for the petitioner cited a ruling reported in BANGALORE WATER SUPPLY v. A. RAJAPPA (1) wherein it was held :

" 'Industry' as defined in S. 2(j) has a wide import.

Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee (the direct and substantial element is chimerical), (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale, prasada or food), prima facie, there is 'Industry' in that enterprises.

Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

If the organisation is a trade or business it does not cease to be one because of philanthropy emanating from the undertaking.

Although S. 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over reach itself.

"Undertaking" must suffer a contextual and associational shrinkage as explained in AIR 1953 S.C. 58, so also, service, calling and the like. This yields the inference that all organised activity possessing the triple elements above mentioned, although not trade or business, may still be 'Industry' provided the nature of the activity viz., the employer-employee basis, bears resemblance to what is found in trade or business. This takes into the fold of 'Industry' undertakings, calling and services adventures analogous to the carrying on of trade or business. All features, other hand the methodology of carrying on the activity viz., in organising the co-operation between employer and employee, may be dissimilar, it does not matter, if on the employment terms there is analogy.

Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or other sense of activation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workman, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

The consequences are (i) professions, (ii) clubs, (iii) educational institution, cooperatives, (iv) research institutes, (v) charitable projects and (vi) other kindred adventures, if they fulfil the triple tests listed above, cannot be exempted from the scope of S. 2(j).

A restricted category of professions, clubs, co-operatives and gurukulas and little research labs, may qualify for exemption if in simple ventures, substantially and, going by the dominant nature criterion, substantively, no employees are entertained but in minimal matters marginal employees are hired without destroying the non-employee character of the unit.

If, in a pious or altruistic mission, many employ themselves free or for small honoraria or like return, mainly drawn by sharing in the purpose or cause, such as lawyers volunteering to run free legal services clinic or doctors serving in their spare hours in a free medical centre or ashramites working at the bidding of the holiness, divinity or like central personality, and the services are supplied free or at nominal cost and those who serve are not engaged for remuneration or on the basis of master and servant relationship, then the institution is not an industry even if stray servants, manual or technical, are hired. Such *elimosynary* or like undertakings, alone are exempt, not other generosity compensation, developmental passion or project.

The dominant nature test :

Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not 'workmen' or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments will be true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the statute.

Sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by Government of statutory bodies.

Even in Departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within S. 2(j).

In the present case, it is the admitted case of the Respondent that the main object of the Respondent Institute has been to develop technology for the production of giant fresh water prawn seed and it is not in dispute that the Respondent-Institute has been producing fresh water prawn seed and selling the same though, it is stated by the Respondent that the main work of the Respondent Institute is research in fresh water prawn seed. So in view of any above discussion, I am of opinion that it cannot be said that the Respondent-Institute does not fall under the definition of 'industry' as defined in Section 2(j) of the I.D. Act and so I hold that the Respondent Institute is an 'industry' as defined in Section 2(j) of the I.D. Act, 1947.

9. Admittedly, the petitioner was not allowed to attend the duty from the end of January, 1988 and thereby he was removed from service of the Respondent-Institute. The question is whether the removal of the petitioner from service from the end of January, 1988 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act 1947. The petitioner examined himself as W.W.1 and deposed that on 1-4-1982 he joined the Respondent Institution at Kakinada as labourer, that the work entrusted to him for changing of water, that he worked continuously from 1982 to 1988, that there was no break to him from 1982 to 1988, that Ex. W1 is the statement showing the number of days in which he worked in the years 1982 to 1988, that Ex. W2 is an office order dt. 29-3-1982 issued by the Officer-in-charge, for appointing him as labourer, that he joined the service through Employment Exchange, that there were no charges framed against him or the memos issued to him during the period he worked, that no notice was given to him at any time, that in 1988 when he went to the office he was informed orally that he need not come in future that his services were terminated, that but later on this work was done by one of his juniors Rama Mohan

Rao and he was not sponsored by the Employment Exchange, that as per him there is still work and the vacancies, that but they are not being allowed and entertained by the Management and that Rama Mohan Rao is still working there, that hence he says that the orders of reinstatement may be issued with full wages, that he is not gainfully employed anywhere and he is entirely depending upon his brothers and that in spite of his best efforts he could not secure any employment anywhere.

10. It is clear from the evidence brought on record that the Petitioner was appointed in 1982 and he has been continued in service by extending his service from time to time till the end of January, 1988. As seen from the evidence brought on record, it is clear that the petitioner-workman worked for more than 240 days continuously within the period of 12 months immediately prior to the date of his removal from service. Admittedly the petitioner worked continuously for more than 240 days within the period of 12 months immediately prior to the date of removal from service. So under the facts and circumstances of the case and in view of the evidence brought on record, I am of opinion that the removal of the petitioner from service from the end of January 1988 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. Admittedly the Respondent did not comply with the mandatory provisions of Section 25-F of the I.D. Act before retrenchment of the petitioner from service. It is contended by the learned counsel for the petitioner that the removal of the petitioner from service amounts to retrenchment as defined in Section 2(oo) of the I.D. Act and that the retrenchment without compliance of the provisions of Section 25-F of the said Act gives right to the petitioner to be reinstated with full back wages and continuity of service. In support of his contention the learned counsel for the petitioner cited a ruling reported in *Gammion India Ltd. v. Niranjan Dass* (1) wherein it was held :—

"Where the service of the employee of Company was terminated on account of recession and reduction in the volume of work of the company, and the termination of service of the employee did not fall in any of the excluded categories, the termination of his service would amount to retrenchment. That being so, when the prerequisite for a valid retrenchment as laid down in Section 25-F was not complied with, the retrenchment bringing about termination of service of employee would be *ab initio* void."

The learned counsel for the petitioner cited another ruling reported in *R. Srinivasa Rao v. Labour Court (II)* wherein it was held :—

"Held.—The N.R.S.A. is an 'industry' under Section 2(j) of the Industrial Disputes Act. Inasmuch as sovereign functions are to be restricted to 'administration of justice and maintenance of order and representation of crime or otherwise legislative powers, administration of the laws and the exercise of judicial power, and inasmuch as the activities of the N.R.S.A. do not come under these categories, it must be held that the N.R.S.A. is an 'industry' falling under Sec. 2(j). The Parliament, per se did not intend to include casual labour on daily wages within the first part of sub-clause (bb) of Sec. 2(oo).

The main part of Sec. 2(oo) speaks of termination 'for any reason' as amounting to retrenchment. In the absence of clear intention, the first part of the sub-clause (bb) of Sec. 2(oo) cannot be interpreted to take in the termination of the services of the casual labour on daily wages. Per se termination of casual labour on daily wages is clearly outside the first part of sub-clause (bb) of Sec. 2(oo) and was never intended to be excluded from the definition of 'retrenchment'. The 'contract of employment' contemplated there is referable to contracts other

(I) AIR 1984 Supreme Court page 500.

(II) 1990 (I) Andhra Weekly Reporter page 428.

than engagement as casual labour on daily wages.

In this case, the discontinuance of the petitioners who were casual labour on daily wages from 3-8-1984 till December, 1984 amounts to 'retrenchment' under Sec. 2(oo). As there is no dispute that they have the required number of days of service continuous as defined in Sec. 25-B and that the provisions of Sec. 25-F are not complied with, the petitioner will be entitled to reinstatement."

The learned counsel for the Petitioner cited another ruling reported in B.H.E.L. Ltd., Baroda v. R. V. K. Rao (I) where-in it was held:

"I. Grade I Welder applied for leave which was granted. After the expiry of the leave the workman remained absent. Hence the Management informed the workman that his name was struck off from the muster roll, which led to an Industrial dispute. The Labour Court took the view that the striking off the name of workman from the muster roll amounted to retrenchment and since the workman was not offered a compensation it declared the retrenchment as null and void and directed reinstatement of the worker. Hence writ petition by the management.

HELD: The workman's services were terminated and his name was struck off the record of employees at a time when clause (bb) of Section 2(oo) was not on the statute book. It was inserted by the Amending Act 49 of 1984 with effect from 18th August, 1984. Prior to the amendment, Section 2(oo) was interpreted in the case of State Bank v. M. S. Mani (1976-1 LLJ-478), Hindustan Steel v. Labour Court (1977-1-LLJ-1), Santosh Gupta v. State Bank of Patiala (1980-1 LLJ-72), Management of K.S.R.T. Corporation v. M. Boniah (1984-1-LLJ-110) and Mohan Lal v. Management of Bharat Electronics Ltd. (1981-K-LLJ-70). The Supreme Court has interpreted Sec. 2(oo) as it stood prior to 16th August, 1984 to mean that termination contemplated in the section embraces not merely termination by act of employer, but the fact of termination, however produced. It is only thereafter that the legislature enacted further exclusion clause in the shape of clause (bb). Clause (bb) of Sec. 2(oo) is not retrospective in nature. It is a remedial provision and is prospective in nature and will apply only to those termination which take place after the provision was brought on the statute book.

II. Once it is found that Sec. 25-F is violated, retrenchment becomes non-est and a declaration has to be given that the workman has continued in the service of the employer. In case arising under Sec. 25-F, Section 11-A will not apply. When once termination is found to be null and void, there is no question of reinstatement, but only a declaration that the workman had continued in service de hors the termination which was violative of Section 25-F."

So in view of my above discussion and in view of the above referred rulings cited by the learned counsel for the Petitioner, I hold that removal of the Petitioner from service amounts to retrenchment and that the petitioner is entitled for reinstatement with full back wages and continuity of service. Hence I answer the point accordingly.

11. In the result, an Award is passed directing the Respondent-Institution to reinstate the Petitioner into service forthwith, with full back wages and continuity of service. The Respondent is further directed to pay the back wages to the petitioner within one month from the date of publication of this Award, failing which the petitioner is entitled to realise the same with interest at 12 per cent per annum from the date of publication of this Award. There will be no order as to costs.

(I) 1990 (I) LLJ, page 87 (High Court of Gujarat)

Appnadix of evidence

Witnesses examined for the Management.
NIL.

Witnesses examined for the workmen.
W.W.I P. Rajasekar

Documents marked for the workmen

Ex. W1—Photostat copy of the statement showing service particulars of P. Rajasekar worked in the years 1982—1988.

Ex. W/2—Photostat copy of the order dated 29-3-1982 issued to P. Rajasekar by the Officer Incharge, appointing him as labourer.

Documents marked for the Management

NIL

G. KRISHNA RAO, Presiding Officer
[No. L-42012/102/88-D.II(B)(Pt.)]

का.प्र. 2978.--औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार¹ सेन्ट्रल इन्स्टीच्यूट प्राफ कैंश वाटर एक्वाकल्चर प्राँत ब्रीडिंग के प्रबन्धन के संबंध निम्नलिखित और उसके कर्मचारियों के बीच अनुबंध में लिखित औद्योगिक विवाद में औद्योगिक अधिकरण हैदराबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 4-11-91 को प्राप्त हुआ था।

S.O. 2978.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Institute of Fresh Water Aquaculture Prawn Breeding and their workmen, which was received by the Central Government on 4-11-91.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri G. Krishna Rao, B.A., B.L., Industrial Tribunal
Thirtieth Day of September, Nineteen Hundred Ninety One
Industrial Dispute No. 37 of 1989

BETWEEN

The Workmen of Central Institute of Freshwater Aquaculture, Kakinada.

.. Petitioner/Workmen

AND

The Management of Central Institute of Freshwater Aquaculture, Kakinada (A.P.)

.. Respondent/Management.

This dispute is coming for final hearing before me in the presence of Sarvasri P. B. Vijaya Kumar, B. M. Patro and G. Srinivasa Rao, Advocates for the workman and Sri P. Vithal Rao, Central Government Additional Standing Counsel for Labour Courts and Industrial Tribunal for the Management and upon perusing the material papers on record and having stood over for consideration till this day, the Court passed the following :

AWARD

This is a reference made by the Government of India, Ministry of Labour, by its order No. L-42012/104/88-D.II(B) dated 2-3-1989 for adjudication of the dispute between the Management of Central Institute of Freshwater Aquaculture Prawn Breeding, Kakinada and their workmen settling forth the point for adjudication in the scheduled appended thereto as follows :

"Whether the action of the management of Central Institute of Freshwater Aquaculture, Kakinada in

terminating the services of Sri Chittoor Manikyala Rao is justified? If not, what relief the said workman is entitled for?"

The said reference was registered as I.D. No. 37 of 1989 on the file of this Tribunal. After receiving the notices both parties put in their appearance and the Petitioner workman filed his claim statement on 24-5-1989 and the Respondent Management filed a counter on 31-7-1989. The petitioner workman also filed a rejoinder to the counter filed by the Management.

2. The averments of the claim statement filed by the petitioner-workman read as follows :

The complainant is working in the Respondent's Organisation which is the Central Government Institution as contingent labourer for more than 7 years without any break in his service on monthly salary of Rs. 450.00 approximately. The Management without any reasons or any prior notice to the complainant illegally removed from his service. The Respondent's management institution unauthorisedly and illegally threatened the complainant to sign on a piece of paper. Before removing the complainant from his service, neither the petitioner was given an opportunity to represent his case nor he was served with any notice before removing from his services. While the complainant as usual attending his duty on 30-1-88, the complainant was called to the chambers of the Respondent's office and asked the complainant to sign on the paper and warned him unless he signs on the paper he would not allow the complainant to go to his house. The complainant, then surrounded by 10 unknown people who were not having any business with the office. They are outsider. The Respondent brought all the said people to his chambers and called the complainant to his chambers and forced the complainant to sign on a piece of paper. When the complainant tried to read the contents of the paper he was abused by the Respondent in filthy language and threatening to sign on the paper without any delay. Otherwise the above said unknown people who are there would see the end of the petitioner. The Respondent high handedly obtained the signatures of the petitioner on the paper in a state of coercion. Thus the complainant signed on paper on 30-1-88. Then the Respondent Passed an order to the petitioner, that the petitioner need not come to the office by then onwards. Thus the way in which he was removed from his services. The act of the Respondent is illegal and arbitrary, more contrary to the rules laid in the Act and also against the principles of natural justice. The Complainant referred a petition before the Assistant Labour Commissioner (Central) Visakapatnam which was numbered as 8/2/88 U.T.C for conciliation proceedings. But the trials of the Asst. Labour Commissioner (Central) Visakapatnam were in vain. The Honourable Asst. Labour Commissioner (Central) Visakapatnam sent his failure reports to the Ministry of Labour, Government of India and the same was received on 20-9-88. The complainant was intimated, regarding the same by the Ministry of Labour in the letter No. L-42012/104/88-D.II (B) dated 16-12-88. Again the complainant received an order No. L-42012/104/I.D.II(B) dated 2-5-89 and the same was received by the complainant on 6-5-89. According to the direction given in the above said order, the complainant prefers this statement of complainant before the Industrial Tribunal, Hyderabad. Hence this complainant. Therefore, the complainant is entitled to ask for re-instatement to his duties with back wages and also entitled to ask for regularisation of the services in the said management. Therefore, the complainant prays that the Honourable Tribunal may kindly be considered the case of the complainant by directing the respondent for re-instatement of the petitioner to his duties and also direct the respondent to pay the back wages to the complainant from the date of his removal from his services till he reinstates. Further, the com-

plainant humbly submits the Respondent Institution may be directed to regularise the services of the complainant as he completed more than 7 years of the service. Otherwise the complainant will be put to severe and irreparable loss.

3. The averments of the counter filed by the Respondent read as follows :

It is respectfully submitted that the reference made by the Government of India by its letter bearing No. L-42012/105/88-D.II (B) dated 2-5-1989 is illegal and without jurisdiction. The various allegations made in the claim petition are not corrected and are therefore hereby denied. The petitioner is put to strict proof of the allegations made by him in his claim statement. It is submitted that the Respondent-Institute viz. Prawn Breeding Unit of Central Institute of Fresh Water Aquaculture, Kakinada is a Centre of Central Institute of Fresh Water Aquaculture, Bhubaneswar which is one of the Institutes started by the Indian Council of Agriculture Research, New Delhi. It is submitted that Indian Council of Agriculture Research is headed by the Director Central and various Institutes are established by it. One of such Institutes is the Central Institute of Fresh Water Aquaculture, Bhubaneswar which is headed by the Director. The Respondent is only a Centre of the Central Institute of Fresh Water Aquaculture. The main object of the Respondent-Institute has been to develop technology for the production of GIANT Fresh Water Prawn Seed. The Respondent Institution was established in the year 1974. The Respondent Unit is headed by a Scientist and the Institutes main work is research in fresh water prawn used. It is submitted that as the main object of the Respondent Institute is only research, it is not an industry within the meaning of the Industrial Disputes Act and therefore the reference itself is illegal. It is submitted that the allegation of the petitioner that he is continuously working in the Respondent is not correct and is not based on any record. The petitioner was appointed only as a contingent labourer at the office of the Respondent with effect from the F.N. of 1-1-82 on daily wages basis as per Indian Council for Agricultural Research Rules with intermittent breaks. The petitioner was appointed by an order of the Respondent No. PPU/Cont. I/81 dated 24-12-1981. It was made clear to the petitioner in the office order of appointment itself that his engagement was purely on temporary basis and the same should be liable to be terminated without any prior notice. It is submitted that the petitioner like some other casual labourers was only engaged on daily wages to assist the regular subordinate staff and help the other supervisory staff. It is submitted that each Scientist can handle only one project who is assisted by a set of regular staff and only when there is any additional work, casual labour could be engaged for the period during which the additional work is available. Accordingly, the petitioner was engaged on casual basis on daily wages. The appointment of the petitioner on casual basis as contingent labour was only for a period of three months and in very week there was one day break. Unless the Director of the Institute approved the management of any casual labour, the Respondent-Institute cannot continue the services of the casual labourers. Every three months, a proposal was being sent to the Director General Institute of Fresh Water Aquaculture, Bhubaneswar for approving the extension of the casual labourers. The extension was sought from time to time whenever the research work was continued and whenever the services of the casual labour were required. It is submitted that the petitioner was engaged only to meet the unexpected additional work and the petitioner appointment was never regular. It is submitted that the petitioner was fully aware of the fact that unless there is work and there is sanction from the Head Office at Bhubaneswar, his services cannot be continued by the Respondent Institute. The Respondent can write to the Head Office only when

the work is available. It is submitted that there was no sanction to continue the services of the casual labour after 31-1-1988. Accordingly, all the casual labourers were informed of it through and circular and all the casual labourers accepted it and acknowledged the same. It is submitted that even at the time of initial engagement and also at subsequent extensions and also when it was informed that there was no work and their services were no more required, they were explained the circumstances and also the terms and conditions under which they were being engaged from time to time in Telugu. It is submitted that the petitioner has never worked continuously and his appointment is also not regular. The petitioner's engagement was ended for a period of three months and as the work was available it was extended from time to time. It is submitted that there was a break of one day in every week. As the designation shows, the petitioner was only a casual labourer on daily wages and he cannot have any right for regular employment. Strictly speaking his service is only for one day and the service comes to an end in the evening and again if work is available, it starts the next day. As the petitioner is not a regular employee and as he was appointed only on daily wage basis, it is not necessary that any prior notice should be given to then. Infact, he was aware that there would not be any work after 31-1-1988. As his appointment was only till 31-1-1988 and it was already informed to him, the contention of the petitioner that a notice should have been given to him is not tenable. The allegation of the petitioner that he was threatened by the Respondent and also by 10 unknown people is absolutely false and is created. The petitioner was never forced to sign on any paper and infact he was informed of the fact that his services would not be required after 31-1-1988. Having received a copy of the circular, he had acknowledged it. This allegation is made by the Petitioner for the first time before this Hon'ble Court. It is not his case even before the Assistant Commissioner of Labour-cum-Conciliation Officer. It is submitted that the petitioner is not entitled to any regular employment and the petitioner was only a casual employee and casual employee will be engaged only when there is a work. The other allegations made in the claim statement are not correct. It is also submitted that in case of casual workman infact there will not be any termination, but they will only have to be informed that their services would not be required from a particular date. Accordingly, it was informed. Since there is no regular appointment and there is no termination, the petition itself is not maintainable. It is, therefore, prayed that this Hon'ble Tribunal may be pleased to dismiss the petition with costs of the Respondent.

4. The averments of the rejoinder filed by the petitioner-workman read as follows :

The workman herein submits that he has gone through the counter filed by the Management. The contents of them are neither true in fact nor tenable under law, except those contents which are specifically admitted herein. It is agreed by the Management in their counter that the workman herein worked from 1-1-82 to 31-1-88 as casual labourer. It is the case of the Management that there were certain breaks. The workman submits that those breaks are only artificial breaks intended to deny the benefits under the Labour Legislature. Those breaks have to be ignored while computing the services. The workman submits that his service is blemishless and at no point of time he was served with any notices etc. The workman also submits that they were recruited through Employment Exchange. The Management is still continuing the services of the workman, who joined the service later to that of the workman. While retrenching the workman, the principle of 'last come first go' is not followed. The workman submits that the provisions of 25F of the I.D. Act has not been complied with while terminating the applicant. The termination of the applicant amounts

to retrenchment within the meaning of Section 2(o) of the I.D. Act. Non-compliance of these express mandatory provisions renders the retrenchment ab-initio-void and as per the Judgements of the Supreme Court, a declaration shall follow that he is deemed to be in service with all attendant and benefits. The workman submits that he is not employed anywhere for hire or reward all along. He could not secure any employment inspite of his best efforts. The workman further submits that the management in an 'industry' within the meaning of Section 2(j) of the I.D. Act. It is engaged in production and distribution of bread for sale to the owners of Private tanks besides research. It is not correct to say that the activity carried on by it is not the activity in order to attract the definition of Industry. The last pay drawn by the workman is Rs. 450.00. Hence the workman therefore prays that this Hon'ble Tribunal may be pleased to order reinstatement with all backwages, continuity of service etc., and pass such other relief or reliefs as this Hon'ble Tribunal may deem fit just and necessary in the circumstances of the case.

5. The petitioner-workman examined himself as W.W.1 and the petitioner's side was closed. Exs. W1 to W3 were marked for the petitioner. No evidence was adduced for the Respondent and the Respondent's side was closed. No documents were marked for the Respondent.

6. The point for adjudication is whether the action of the Management of Central Institute of Fresh Water Aquaculture Prawn Breeding, Kakinada in terminating the services of Sri Chittoor Manikyala Rao is justified? If not, what relief the said workman is entitled to?

7. Point.—The undisputed facts are that the Petitioner-workman worked in the Respondent Organisation as contingent labourer on daily wage basis for more than 6 years and that the Petitioner-workman was not allowed to attend the duty from the end of January, 1988. It is contended by the Respondent that the Respondent Organisation is purely a research institute and it does not fall under the definition of 'industry' as defined in Section 2(j) of the Industrial Disputes Act, 1947 and therefore the reference itself is wrong and this Tribunal cannot have any jurisdiction to adjudicate upon any matter and consequently the petitioner-workman is not entitled to seek any relief before this Tribunal and therefore the reference is liable to be rejected in limine.

8. It is contended by the learned counsel for the petitioner that the Respondent Institute has been involved in the activity of production of prawn seeds and selling the same and therefore, the Respondent Institute is an industry squarely falls under the definition of 'industry' as defined in Section 2(j) of the I.D. Act. In support of his contention the learned counsel for the petitioner cited a ruling reported in Bangalore Water Supply v. R. Rajappa (AIR 1978 Supreme Court page 548) wherein it was held :

" 'Industry' as defined in S. 2(j) has a wide import.

Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee (the direct and substantial element is chimerical), (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale, prasad or food), prima facie, there is an 'industry' in that enterprise.

Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

If the organisation is a trade or business it does not cease to be one because of Philanthropy enlivening the undertakings.

Although S. 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over reach itself.

"Undertaking" must suffer a contextual and associational shrinkage as explained in AIR 1953 S.C. 58, so also, service, calling and the like. This yields the inference that all organised activity possessing the triple elements above mentioned, although not trade or business, may still be 'Industry' provided the nature of the activity viz., the employer-employee basis, bears resemblance to what is found in trade or business. This takes into the fold of 'industry' undertakings, calling and services adventures analogous to the carrying on of trade or business. All features other than the methodology of carrying on the activity viz. in organising the cooperation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy.

Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incognuity or other sense of activation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial dispute between employer and workman, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

The consequences are (i) profession, (ii) clubs (iii) educational institutions, cooperatives, (iv) research institutes, (v) charitable projects and (vi) other kindred adventures, if they fulfil the triple tests listed above, cannot be exempted from the scope of S. 2(j).

A restricted category of professions, clubs, co-operatives and even gurukulas and little research labs, may qualify for exemption if in simple ventures, substantially and, going by the dominant nature criterion, substantively, no employees are entertained but in minimal matters marginal employees are hired without destroying the non-employee character of the unit.

If, in a pious or altruistic mission, many employ themselves free or for small honoraris or like return, mainly drawn by sharing in the purpose or cause, such as lawyers volunteering to run a free legal services clinic or doctors serving in their spare hours in a free medical centre or ashramites working at the bidding of the holiness, divinity or like central personality, and the services are supplied free or at nominal cost and those who serve are not engaged for remuneration or on the basis of matter and servant relationship, then the institution is not an industry even if stray servants, manual or technical, are hired. Such elmsosynary or like undertakings alone are exempt, not other generosity compassion, developmental passion or project.

The dominant nature test :

Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not 'workman' or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments will be true test. The whole undertaking will be 'industry' although those who are not 'workman' by definition may not benefit by the status.

Sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures under taken by Government or statutory bodies.

Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within S.2(f)."

In the present case, it is the admitted case of the Respondent that the main object of the Respondent Institute has been to develop technology for the production of giant fresh water prawn seed and it is not in dispute that the Respondent-Institute has been producing fresh water prawn seed and selling the same though, it is stated by the Respondent that the main work of the Respondent Institute is research in fresh water Prawn seed. So in view of my above discussion, I am of opinion that it cannot be said that the Respondent-Institute does not fall under the definition of industry as defined in Section 2(j) of the I.D. Act, and so I hold the Respondent-Institute is an 'industry' as defined in Section 2(j) of the I.D. Act, 1947.

9. Admittedly, the petitioner was not allowed to attend the duty from the end of January, 1988 and thereby he was removed from service of the Respondent Institute. The question is whether the removal of the petitioner from service from the end of January, 1988 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. The petitioner examined himself as W.W.1 and deposed that he is the petitioner herein, that on 1-1-1982 he joined the Respondent Institute at Kakinada as labourer, that the work entrusted to him for changing of water, that he worked continuously from 1982 to 1988 that there are no break to him from 1982 to 1988, that Ex. W1 is the service certificate issued by one K. J. Rao Officer-in-charge of the Institute, dt. 31-1-1985, that Ex. W2 is a memo issued to him by the Officer-Incharge on 24-12-1981, that Ex. W3 is another memo issued to him by the Officer Incharge on 7-12-1981 in connection with selection, that he joined the service through Employment Exchange, that there were no charges framed against him or the memos issued to him during the period he worked, that no notice was given to him at any time, that in 1988 when he went to the office he was informed orally that he need not come in future that his services were terminated, that but later on this work was done by one of his juniors Rama Mohan Rao and he was not sponsored by the Employment Exchange, that as per him there is still work and the vacancies but they are not being allowed and entertained by the management and that Rama Mohan Rao is still working there and that hence he says that the orders of reinstatement may be issued with full wages, that he is not gainfully employed anywhere and he is entirely depending upon his father and that inspite of his best efforts he could not secure any employment anywhere.

10. It is clear from the evidence brought on record that the Petitioner was appointed in 1982 and he has been continued in service by extending his service from time to time till the end of January 1988. As seen from the evidence brought on record, it is clear that the petitioner-workman worked more than 240 days continuously within the period of 12 months immediately prior to the date of his removal from service. Admittedly the petitioner worked continuously for more than 240 days within the period of 12 months immediately prior to the date of removal from service. So under the facts and circumstances of the case and in view of the evidence brought on record, I am of opinion that the removal of the petitioner from service from the end of January 1988 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. Admittedly the Respondent did not comply with the mandatory provisions of Section 25-F of the I.D. Act before retrenchment of the petitioner from service. It is contended by the learned counsel for the petitioner that the removal of the petitioner from service amounts to retrenchment as defined in Section 2(oo) of the I.D. Act and that the retrenchment without compliance of the provisions of Section 25-F of the said Act gives right to the petitioner to be reinstated with full back wages and continuity of service. In support of his contention the learned counsel for the petitioner cited a ruling reported in Gammon India Ltd. v. Niranjan Dass (AIR 1984 Supreme Court, Page 500) wherein it was held:—

"Where the service of the employee of company was terminated on account of recession and reduction in the volume of work of the company and the termination of service of the employee did not fall in any of the excluded categories the termination of his service would amount to retrenchment. That

being so, when the prerequisite for a valid retrenchment as laid down in Section 25-F was not complied with, the retrenchment bringing about termination of service of employee would be ab initio void."

The learned counsel for the petitioner cited another ruling reported in *R. Srinivasa Rao v. Labour Court* [1990 (1) Andhra Weekly Reporter, page 428] wherein it was held:—

"Held.—The N.R.S.A. is an 'industry' under Section 2(j) of the Industrial Disputes Act. Inasmuch as sovereign functions are to be restricted to 'administration of justice and maintenance of order and representation of crime or otherwise legislative powers, administration of the laws and the exercise of judicial power, and inasmuch as the activities of the N.R.S.A. do not come under these categories, it must be held that the N.R.S.A. is an 'industry' falling under Sec. 2(j).

The Parliament, per se did not intend to include casual labour on daily wages within the first part of sub-clause (bb) of Sec. 2(oo).

The main part of Sec. 2(oo) speaks of termination 'for any reason' as amounting to retrenchment. In the absence of clear intention, the first part of the sub-clause (bb) of Sec. 2(oo) cannot be interpreted to take in the termination of the services of the casual labour on daily wages. Per se termination of casual labour on daily wages is clearly outside the first part of sub-clause (bb) of Sec. 2(oo) and was never intended to be excluded from the definition of 'retrenchment'. The 'contract of employment' contemplated there is referable to contracts other than engagement as casual labour on daily wages.

In this case, the discontinuance of the petitioners who were casual labour on daily wages from 3-8-1984 till December 1984 amounts to 'retrenchment' under Sec. 2(oo). As there is no dispute that they have the required number of days of service continuance as defined in Sec. 25-B and that the provisions of Sec. 25-F are not complied with, the petitioner will be entitled to reinstatement."

The learned counsel for the Petitioner cited another ruling reported in *B.H.E.L. Ltd., Baroda v. R.V.K. Rao* [1990(1) LLJ., page 87 (High Court of Gujarat)] it was held:—

"1. Grade I Welder applied for leave which was granted. After the expiry of the leave the workman remained absent. Hence the management informed the workman that his name was struck off from the muster roll, which led to an industrial dispute. The Labour Court took the view that the striking off the name of workman from the muster roll amounted to retrenchment and since the workman was not offered a compensation it declared the retrenchment as null and void and directed reinstatement of the worker. Hence writ petition by the management.

HELD.—The Workman's services were terminated and his name was struck off the record of employees at a time when clause (bb) of Section 2(oo) was not on the statute book. It was inserted by the Amending Act 49 of 1984 with effect from 18th August. Prior to the amendment, section 2(oo) was interpreted in the cases of *State Bank v. N. S. Mani* (1976-1 LLJ-478), *Hindustan Steel v. Labour Court* (1977-1 LLJ-1), *Santosh Gupta v. State Bank of Patiala* (1990-1), LLJ-72), *Management of K.S.R.T. Corporation v. M. Boniah* (1984-1 LLJ-110) and *Mohan Lal v. Management of Bharat Electronics Ltd.* (1981-1 LLJ-70), the Supreme Court has interpreted Sec. 2(oo) as it stood prior to 18th August, 1984 to mean that termination contemplated in the section embraces not merely termination

by act of employer, but the fact of termination, however produced. It is only thereafter that the legislature enacted further exclusion clause in the shape of clause (bb). Clause (bb) of Sec. 2(oo) is not retrospective in nature. It is a remedial provision and is prospective in nature and will apply only to those terminations which take place after the provision was brought on the statute book.

II. Once it is found that Sec. 25-F is violated, retrenchment becomes non-est and a declaration has to be given that the workman has continued in the service of the employer. In case arising under Section 25-F, Section II-A will not apply. When once termination is found to be null and void, there is no question of reinstatement, but only a declaration that the workman has continued in service dehors the termination which was violation of Section 25-F."

So in view of my above discussion and in view of the above referred rulings cited by the learned counsel for the petitioner, I hold that removal of the petitioner from service amounts to retrenchment and that the petitioner is entitled for reinstatement with full back wages and continuity of service. Hence I answer the point accordingly.

11. In the result, an Award is passed directing the Respondent-Institute to restate the Petitioner into service forthwith, with full back wages and continuity of service. The Respondent is further directed to pay the back wages to the petitioner within one month from the date of publication of this Award, failing which the petitioner is entitled to realise the same with interest at 12 percent per annum from the date of publication of this Award. There will be no order as to costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 30th day of September, 1991.

Appendix of Evidence

Witnesses examined for :

Petitioner-workman :

Witnesses examined for :

Respondent-Management :

W.W.1 Chitturi Manikyala Rao.

NIL.

Documents marked for the Petitioner-workman

Ex. W1 31-1-85 Photostat copy of the service certificate dt. 31-1-85 issued to Ch. Manikyala Rao by the Officer-Incharge, Prawn Breeding Unit, Kakinada.

Ex. W2 24-12-81 Photostat copy of the Memo dt. 24-12-81 issued to Sh. Manikyala Rao by the Officer-Incharge, Prawn Breeding Unit, Kakinada.

Ex. W3 7-12-81—Photostat copy of the Memo dt. 7-2-81 issued to Ch. Manikyala Rao by the Officer Incharge in connection with selection.

Documents marked for the Respondent—Management.

NIL.

G. KRISHNA RAO, Presiding Officer
[No. I-42012/104/88-D.II(B)(Pt.)]

का.सा. 2979.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेन्ट्रल इन्स्टीच्यूट आफ फ्रीश वाटर एक्जुकुलयर प्रॉन ब्रीडिंग के प्रबन्धन के संबद्ध नियोजक और उनके कर्मचारियों के बीच मतभेद में निहित औद्योगिक विवाद में औद्योगिक अधिकरण द्वैराज्य के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 4-11-91 को प्राप्त हुआ था।

S.O. 2979.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Instt. of Fresh Water Acquaculture Prawu Breeding and their workmen, which was received by the Central Government on 4-11-91.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri G. Krishna Rao, B.A., B.L. Industrial Tribunal.

THIRTIETH DAY OF AUGUST NINETEEN HUNDRED NINETY ONE

INDUSTRIAL DISPUTE NO. 39 OF 1989

BETWEEN :

The Workman of Central Institute of Freshwater, Agriculture, Prawn Breeding, Kakinada (A.P.).

Petitioner/Workman

AND

The Management of Central Institute of Freshwater Acquaculture, Prawn Breeding, Kakinada. (AP)—Respondent/Management.

This dispute is coming for final hearing before me in the presence of Sarvasri P. B. Vijaya Kumar, B. M. Patro and G. Srinivas Rao, Advocates for the Workmen and Sri P. Vithal Rao, Central Government Additional Standing Counsel for Labour Courts and Industrial Tribunal for the Management of and upon Perusing the material papers on record and having stood over for consideration till this day, the Court passed the following :

AWARD

This is a reference made by the Government of India, Ministry of Labour, by its Order No. L-42012/116/88-D.II(B), dated 4-5-1989 for adjudication of the dispute between the Management of Central Institute of Freshwater Acquaculture Prawn Breeding, Kakinada and their workman setting forth the point for adjudication in the scheduled appended there to as follows :—

“Whether the action of the management of Central Institute of Freshwater Acquaculture, Kakinada in terminating the services of Sri Ganupu Adinarayana is justified? If not, to what relief the said workman is entitled?”

The said reference was registered as I.D. No. 39 of 1989 on the file of this Tribunal. After receiving the notices both parties put in their appearance and the Petitioner-workman filed his claim statement on 24-5-1989 and the Respondent-Management filed a counter on 31-7-1989. The Petitioner-workman also filed a rejoinder to the counter filed by the Management.

2. The averments of the claim statement filed by the Petitioner-workman read as follows :

The Complainant is working in the Respondents Organisation which is the Central Government institution as contingent labour for more than 6 years without any break in his service on monthly salary of Rs. 450.00 approximately. The Management without any reason or any prior notice to the complainant illegally removed from his services. The Respondent management institution unauthorisedly and illegally threatened the complainant to sign on a piece of paper before removing the complainant from his services. Neither the petitioner was given an opportunity to represent his case, nor he was served with any notice before removing from his services. While the complainant as usual attending his duties on 30-1-88 the complainant was called to the chambers of the Respondent's office and asked the complainant to sign on the paper, and warned him unless he signs on the paper he would not allow the complainant to go to his house. The complainant then surrounded by 10 unknown people who were not having any business with the office. They are outsiders. The Respondent brought all the said people to his chambers and called the complainant to his chambers and forced the complainant to sign on a piece of paper. When the complainant tried to read the contents of the paper he was abused by the Respondent in filthy language and threatening to sign on the paper without any delay. Otherwise the above said unknown people who are there would see the end of the petitioner. The Respondent high handedly obtained the signature of the petitioner on the paper in a state of coercion thus the complainant signed on the paper on 30-1-1988. Then the Respondent passed an order to the petitioner, that the petitioner need not come to the office by then onwards. Thus the way in which he was removed from his services. The act of the Respondent is illegal and arbitrary more contrary to the rules laid in the act and also against the principles of natural justice. The complainant referred a petition before the Asst. Labour Commissioner (Central) Visakhapatnam, which was numbered as 8-5-88 ALX for conciliation proceedings. But the trials of the Asst. Labour Commissioner (Central) Visakhapatnam were in vain. The Honourable Asst. Labour Commissioner (Central) Visakhapatnam sent his failure reports to the Ministry of Labour, Government of India and the same was received on 20-9-1988. The complainant was intimated regarding the same by the Ministry of Labour in the letter No. L-42012/116/88-D.II(B) dated 4-5-1989. Again the complainant received an order No. L-42012/116/88-D.II(B) dt. 4-5-1989 and the same was received by the complainant on 6-5-1989. According to the directions given in the above said order the complainants refers this statement of complaint before the Industrial Tribunal, Hyderabad. Hence the complaint. Therefore the complainant is entitled to ask for re-instatement to his duties with back wages and also entitled to ask for regularisation of the services in the said management. Therefore, the complainant prays that the labour Tribunal may kindly be considered the case of the complainant by directing the Respondent for re-instatement of the petitioner to his

duties and also direct the respondent to pay back wages to the complainant from the date of his removal from his services till he is re-instated. Further the complainant humbly submits that the Respondent institution may be directed to regularise the services of the complainant as he completed more than 6 years of his service. Otherwise the complainant will suffer a loss.

3. The averments of the counter filed by the Respondent read as follows :

It is respectfully submitted that the reference made by the Government of India by its letter bearing No. L-42012/115/88-D.II(B) dated 2-5-1989 is illegal and without jurisdiction. The various allegations made in the claim petition are not correct and are therefore hereby denied. The petitioner is put to strict proof of the allegations made by him in his claim statement. It is submitted that the Respondent-Institute viz., Prawn Breeding Unit of Central Institute of Fresh Water Aquaculture, Kakinada is a Centre of Central Institute of Fresh Water Aquaculture, Bhubaneswar which is one of the Institutes started by the Indian Council of Agricultural Research, New Delhi. It is submitted that Indian Council of Agricultural Research is headed by the Director General and various Institutions are established by it. One of such Institutes is the Central Institute of Freshwater Aquaculture, Bhubaneswar which is headed by the Director. The Respondent is only a Centre of the Central Institute of Fresh Water Aquaculture. The main object of the Respondent Institute has been to develop technology for the production of GIANT Fresh Water Prawn Seed. The Respondent Institute was established in the year 1974. The Respondent Unit is headed by a Scientist and the Institute's main work is research in fresh water prawn seed. It is submitted that as the main object of the Respondent-Institute is only research, it is not an industry within the meaning of the Industrial Disputes Act and therefore the reference itself is illegal. It is submitted that the allegation of the petitioner that he is continuously working in the Respondent is not correct and not based on any record. The Petitioner was appointed only as a casual labourer at the office of the Respondent with effect from 1-5-1984 on daily wage basis as per Indian Council for Agricultural Research Rules with intermittent breaks. The Petitioner was appointed by an order of the Respondent Vide No. PPU/Cont.L/82 dated 17-4-1984. It was made clear to the petitioner in the office Order of appointment itself that his engagement was purely on temporary basis and the same would be liable to be terminated without any prior notice. It is submitted that the petitioner like some other casual labourers was only engaged on daily wages to assist the regular subordinate staff and help the other supervisory staff. It is submitted that each Scientist can handle only one project who is assisted by a set of regular staff and only when there was any additional work with casual labour could be engaged for the period during which the additional work is available. Accordingly, the petitioner was engaged on casual basis on daily wages. The appointment of the petitioner on casual basis as contingent labour was only for a period of three months and in every week there was

one day break. Unless the Director of the Institute approves the engagement of any casual labour, the Respondent-Institute cannot continue the services of the casual labourers. Every three months, a proposal was being sent to the Director, Central Institute of Fresh Water Aquaculture Bhubaneswar for approving the extension of the casual labourers. The extension was sought from time to time whenever the research work was continued and whenever the services of the casual labour were required. It is submitted that the petitioner was engaged only to meet the unexpected additional work and the petitioner's appointment was never regular. It is submitted that the petitioner was fully aware of the fact that unless there is work and there is sanction from the Head Office at Bhubaneswar his services cannot be continued by the Respondent-Institute. The Respondent can write to the Head Office only when the work is available. It is submitted that there was no sanction to continue the services of the casual labour after 31-1-1988. Accordingly, all the casual labourers were informed of it through a circular and all the casual labourers accepted it and acknowledged the same. It is submitted that even at the time of initial engagement and also at subsequent extensions and also when it was informed that there was no work and their services were no more required, they were explained the circumstances and also the terms and conditions under which they were being engaged from time to time in Telugu. It is submitted that the petitioner has never worked continuously and his appointment is also not regular. The petitioner's engagement was ended for a period of three months and as the work was available, it was extended from time to time. It is submitted that there was a break of one day in every week. As the designation above the petitioner was only casual labourers on daily wages and cannot have any right for regular employment. Strictly speaking his service is only for one day and the service comes to an end in the evening and again if work is available, it starts the next day. As the petitioner is not a regular employee and as he was appointed only on daily wage basis, it is not necessary that any prior notice should be given to him. In fact, he was aware that there would not be any work after 31-1-1988. As his appointment was only till 31-1-1988 and it was already informed to him, the contention of the petitioner that a notice should have been given to him is not tenable. The allegation of the petitioner that he was threatened by the Respondent and also by 10 unknown people is absolutely false and is created. The petitioner was never forced to sign on any paper and in fact he was informed of the fact that the services of him would not be required after 31-1-1988. Having received a copy of the circular, he had acknowledged it. This allegation is made by the petitioner for the first time before this Hon'ble Court. It is not his case even before the Assistant Commissioner of Labour-cum-Conciliation Officer. It is submitted that the petitioner is not entitled to any regular employment and the petitioner was only a casual employee and casual employee will be engaged only when there is a work. The other allegations made in the claim statement are not correct. It is also submitted that in case of casual workmen

in fact there will not be any termination, but they will only have to be informed that their services would not be required from a particular date. Accordingly, it was informed, Since there is no regular appointment and there is no termination, the petition itself is not maintainable. It is, therefore, prayed that this Hon'ble Tribunal may be pleased to dismiss the petition with costs of the Respondent.

4. The averments of the rejoinder filed by the Petitioner-workman read as follows :

The workman herein submits that he has gone through the counter filed by the Management. The contents of them are neither true in fact and nor tenable under law, except those contents which are specifically admitted herein. It is agreed by the Management in their counter that the workman herein worked from 1-5-1984 to 31-1-1988 as casual labourer. It is the case of the management that there were certain breaks. The workman submits that those breaks are only artificial breaks intended to deny the benefits under the labour Legislature. Those breaks have to be ignored while computing the service. The workman submits that his service is blemishless and at no point of time he was served with any notice etc. The workman also submits that they were recruited through Employment Exchange. The management is still continuing the services of the workman, who joined the service later to that of the workman. While retrenching the workman, the principles of 'last come first go' is not followed. The workman submits that the provisions of 25F of the I. D. Act has not been complied with while terminating the applicant. The termination of the applicant amounts to retrenchment within the meaning of Section 2(00) of the I. D. Act. Non-compliance of these express mandatory provisions render the retrenchment ad-intio-void and as per the Judgements of the Supreme Court, a declaration shall follow that he is deemed to be in service with all attendant and consequential benefits. The workman submits that he is not employed anywhere for hire or reward all along. He could not secure any employment inspite of his best efforts. The workmen further submits that the management is an 'Industry' within the meaning of Sec. 2(j) of the I.D. Act. It is engaged in production and distribution of bread for sale to the owners of private tanks besides research. It is not correct to say that the activity carried on by it is not the activity in order to attract the definition of industry. The last pay drawn by the workman is Rs. 450.00. Hence, the workman, therefore, prays that this Hon'ble Tribunal may be pleased to order reinstatement with all back wages, continuity of service etc., and pass such other relief or reliefs as this Hon'ble Tri-

bunal may deem fit, just and necessary in the circumstances of the case.

5. The Petitioner-workman examined himself as W.W. 1 and the Petitioner's side was closed. Exs. W 1 to W 3 were marked for the Petitioner. No evidence was adduced for the Respondent and the Respondent's side was closed. No documents were marked for the Respondent.

6. The point for adjudication is whether the action of the Management of Central Institute of Freshwater Aquaculture, Kakinada in terminating the services of Sri Gunapu Adinatayana is justified? If not, to what relief the said workman is entitled?

7. POINT - The undisputed facts are that the Petitioner-workman worked in the Respondent Organisation as contingent labourer on daily wage basis for more than 3 years and that the Petitioner-workman was not allowed to attend the duty from the end of January, 1988. It is contended by the Respondent that the Respondent Organisation is purely a research institute and it does not fall under the definition of 'industry' as defined in Section 2(j) of the Industrial Disputes Act, 1947 and therefore the reference itself is wrong and this Tribunal cannot have any jurisdiction to adjudicate upon any matter and consequently the Petitioner-workman is not entitled to seek any relief before this Tribunal and therefore the reference is liable to be rejected in limini.

8. It is contended by the learned counsel for the Petitioner that the Respondent Institute has been involved in the activity of production of prawn seeds and selling the same and therefore, the Respondent Institute is an industry squarely falls under the definition of 'Industry' as defined in Section 2(j) of the I. D. Act. In support of his contention the learned counsel for the Petitioner cited a ruling reported in Bangalore Water Supply v. A. Rajappa (I) wherein it was held -

" 'Industry' as defined in S. 2(j) has a wide import.

(I) AIR 1978 Supreme Court, page 548

Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee (the direct and substantial element is Chimerica) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale, pressed or food), prima facie, there is an 'Industry' in that enterprise.

Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

If the organised is a trade or business it does not cease to be one because of philanthropy emanating from the undertaking.

Although S. 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over reach itself.

"Undertaking" must suffer a contextual and associational shrinkage as explained in AIR 1953 S. C. 58, so also, service, calling and the like. This yields the inference that all organised activity possessing the triple elements above mentioned, although not trade or business, may still be 'industry' provided the nature of the activity viz., the employer-employee basis, bears resemblance to what is found in trade or business. This takes into the fold of 'industry' undertakings, callings and services adventures analogous to the carrying on of trade or business. All features, other hand the methodology of carrying on the activity viz., in organising the cooperation between employer and employee, may be dissimilar, it does not matter, if on the employment terms there is analogy.

Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or other senses of activation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

The consequences are (i) professions, (ii) clubs (iii) education institutions, co-operatives, (iv) research institutes, (v) charitable projects and (vi) other kindred adventures, if they fulfil the triple tests listed above, can not be exempted from the scope of S. 2(j).

A restricted category of professions, clubs, co-operatives and even gurukulas and little research labs, may qualify for exemption if in simple ventures, substantially and, going by the dominant nature criterion, substantively, no employees are entertained but in a minimal matters marginal employees are hired without destroying the non-employee character of the unit.

If, in a pious or altruistic mission, many employ themselves free or for small honoraria or like return, mainly drawn by sharing in the purpose or cause, such as lawyers volunteering to run a free legal services clinic or doctors serving in their spare hours in a free medical centre or ashramites working at the bidding of the holiness, diminity or like central personality, and the services are supplied free or at nominal cost and those who serve are not engaged for remuneration or on the basis of master and servant relationship, then the

institution is not an industry even if stray servants, manual or technical, are hired, such elmsosynary or like undertakings alone are exempt, not other generosity compassion, developmental passion or project.

The dominant nature test :

Where a complex of activities, some of which qualify for exemption, others not involves employees on the total undertaking, some of whom are not 'workman' or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments will be true test. The whole undertaking will be "Industry" although those who are not "workman" by definition may not benefit by the status.

Sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by Government or statutory bodies.

Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within S. 2(j)."

In the present case, it is the admitted case of the Respondent that the main object of the Respondent Institute has been, to develop technology for the production of giant fresh water Prawn seed and it is not in dispute that the Respondent-Institute has been producing fresh water prawn seed and selling the same though, it is stated by the Respondent that the main work of the Respondent Institute is research in fresh water prawn seed. So in view of my above discussion, I am of opinion that it cannot be held that the Respondent-Institute does not fall under the definition of 'industry' as defined in Section 2(j) of the I.D. Act, and so I hold that the Respondent Institute is an 'industry' as defined in Section 2(j) of the I.D. Act, 1947.

9. Admittedly, the petitioner was not allowed to attend the duty from the end of January, 1988 and thereby he was removed from service of the Respondent-Institute. The question is whether the removal of the petitioner from service from the end of January, 1988 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. The petitioner examined himself as W.W. 1 and deposed that on 1-5-1984 he joined the Respondent-Institution at Kakinada as Labourer, that the work entrusted to him for changing of water, that he worked continuously from 1984 to 1988, that there was no break to him from 1984 to 1988, that Ex. W1 is the statement showing the number of days in which he worked in the years 1984 to 1988, that Ex. W2 is the memo issued by the Officer-in-charge dt. 17-4-1984 appointing him as labourer, that he joined the service through Employment Exchange, that there were no charges framed against him or the memo issued to him during the period he worked, that no notice was given to him at any time that in 1988 when he went to the office he was informed orally that he need not

come in future that his services were terminated, that but later on this work was done by one of his juniors Rama Mohan Rao and he was not sponsored by the Employment Exchange, that as per him there is still work and the vacancies, that but they are not being allowed and entertained by the Management, that Rama Mohan Rao is still working there, that hence he says that the orders of reinstatement may be issued with full wages, that he is not gainfully employed anywhere and he is entirely depending upon his father and brothers and that in spite of his best efforts, he could not secure any employment anywhere.

10. It is clear from the evidence brought on record that the Petitioner was appointed in 1984 and he has been continued in service by extending his service from time to time till the end of January, 1988. As seen from the evidence brought on record, it is clear that the Petitioner-workman worked for more than 240 days continuously within the period of 12 months immediately prior to the date of his removal from service. Admittedly the petitioner worked continuously for more than 240 days within the period of 12 months immediately prior to the date of removal from service. So under the facts and circumstances of the case and in view of the evidence brought on record, I am of opinion that the removal of the petitioner from service from the end of January, 1988 amounts to retrenchment as defined in Section 2(oo) of the I.D. Act, 1947. Admittedly the Respondent did not comply with the mandatory provisions of Section 25-F of the I.D. Act before retrenchment of the Petitioner from service. It is contended by the learned counsel for the petitioner that the removal of the petitioner from service amounts to retrenchment as defined in Section 2(oo) of the I.D. Act and that the retrenchment without compliance of the provisions of Section 25-F of the said Act gives right to the petitioner to be reinstated with full back wages and continuity of service. In support of his contention and learned counsel for the petitioner cited a ruling reported in *Gammon India Ltd. v. Niranjan Dass* : (AIR 1984 Supreme Court, Page 500)

“Where the service of the employee of Company was terminated on account of recession and reduction in the volume of work of the company, and the termination of service of the employee did not fall in any of the excluded categories, the termination of his service would amount to retrenchment. That being so, when the prerequisite for a valid retrenchment as laid down in Section 25-F was not complied with, the retrenchment bringing about termination of service of employee would be ab initio void.”

The learned counsel for the Petitioner cited another ruling reported in *R. Srinivasa Rao v. Labour Court* (1990 (1) Andhra Weekly Reporter Page 428) wherein it was held :

“Held :—The N.R.S.A. is an ‘industry’ under Section 2(j) of the Industrial Disputes Act. Inasmuch as sovereign functions are to be restricted to ‘administration of justice and

maintenance or order and representation of crime or otherwise legislative powers, administration of the laws and the exercise of judicial power, and inasmuch as the activities of the N.R.S.A. do not come under these categories, it must be held that the N.R.S.A. is an ‘industry’ falling under Sec. 2(j).

The Parliament, per se did not intend to include casual labour on daily wages within the first part of sub-clause (bb) of Sec. 2(oo).

The main part of Sec. 2(oo) speaks of termination ‘for any reason’ as amounting to retrenchment. In the absence of clear intention, the first part of the sub-clause (bb) of Sec. 2(oo) cannot be interpreted to take in the termination of the services of the casual labour on daily wages. Per se termination of casual labour on daily wages is clearly outside the first part of sub-clause (bb) of Sec. 2(oo) and was never intended to be excluded from the definition of ‘retrenchment’. The contract of employment contemplated there is referable to contracts other than engagement as casual labour on daily wages.

In this case, the discontinuance of the petitioners who were casual labour on daily wages from 3-8-1984 till December, 1984 amounts to retrenchment under Sec. 2(oo). As there is no dispute that they have the required number of days of service continuous as defined in Sec. 25-B and that the provisions of Sec. 25-F are not complied with, the petitioner will be entitled to reinstatement.”

The learned counsel for the Petitioner cited another ruling report in *B.H.E.L. Ltd. Bardoda v. R. K. Rao*.

[1990(1)LIJ, page 87 (High Court of Gujarat)] where it was held :

“I. Grade I Welder applied for leave which was granted. After the expiry of the leave the workman remained absent. Hence the management informed the workman that his name was struck off from the muster roll, which led to an industrial dispute. The Labour Court took the view that the striking off the name of workman from the muster roll amounted to retrenchment and since the workman was not offered a compensation it declared the retrenchment as null and void and directed reinstatement of the worker. Hence writ petition by the Management.

Held : The Workman’s services were terminated and his name was struck off the record of employees at a time when clause (bb) of Section 2(oo) was not on the statute book. It was inserted by the Amending Act 49 of 1984 with effect from 18th August, 1984. Prior to the amendment, Section 2(oo) was interpreted in the case

of State Bank v. N. S. Mani (1976-I LLJ-478), Hindustan Steel v. Labour Court (1977-I LLJ-1), Santosh Gupta v. State Bank of Patiala (1980-I-LLJ-72), Management of K.S.R.T. Corporation v. M. Banaih (1984-I-LLJ-110) and Mohan Lal v. Management of Bharat Electronics Ltd. (1981-I-LLJ-70), the Supreme Court has interpreted Sec. 2(oo) as it stood prior to 16th August 1984 to mean that termination contemplated in the section embraces not merely termination by act of employer, but the fact of termination, however produced. It is only thereafter that the legislature enacted further exclusion clause in the shape of clause (bb). Clause (bb) of Sec. 2(oo) is not retrospective in nature. It is a remedial provision and is prospective in nature and will apply only to those terminations which take place after the provision was brought on the statute book.

II. Once it is found that Sec. 25-F is violated, retrenchment becomes non-est and a declaration has to be given that the workman has continued in the service of the employer. In case arising under Sec. 25-F, Section 11-A will not apply. When once termination is found to be null and void, there is no question of reinstatement, but only a declaration that the workman had continued in service, de hors the termination which was violative of Section 25-F."

So in view of my above discussion and in view of the above referred rulings cited by the learned counsel for the petitioner. I hold that removal of the petitioner from service amounts to retrenchment and that the Petitioner is entitled for reinstatement with full back wages and continuity of service. Hence I answer the point accordingly.

11. In the result, an Award is passed directing the Respondent—Institute to reinstate the Petitioner into service forthwith, with full back wages and continuity of service. The Respondent is further directed to pay the back wages to the petitioner within one month from the date of publication of this Award, failing which the petitioner is entitled to release the same with interest at 12 per cent per annum from the date of publication of this Award. There will be no order as to costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 30th day of September, 1991.

Appendix of Evidence

Witnesses examined for the Workmen.	Witnesses examined for the Management.
W.W.1 C. Adinarayana	Nil

Documents marked for the Workman.

Ex. W1 Photostat copy of the statement showing the service Particulars of G. Adinarayana worked in the years 1984 to 1988.

Ex. W2 Photostat copy of the Memo dt. 17-4-84 issued to G. Adinarayana by the Officer-incharge appointing him as labourer.

Documents marked for the Management.

NIL.

G. KRISHNA RAO, Presiding Officer
[No. L-42012/116/88-D.III(B)(Pt.)]

का.आ.2980 -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस.डी.ओ. फोनस, देहरादून के प्रबन्धन के संबंध में निम्नलिखित आदेशों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचवट को प्रकाशित करता है, जो केन्द्रीय सरकार को 4-11-91 को प्राप्त हुआ था।

S.O. 2980.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.D.O. Phones, Dehradun and their workmen, which was received by the Central Government on 4-11-91.

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 145/89

In the matter of dispute

BETWEEN :

Shri Rattan Prakesh s/o Shri Sada Nand, c/o SDO, Phones, 63 F Rajpur Road, Dehradun.

VERSUS

The Sub-Divisional Officer Phones, Dehradun.

APPEARANCES

Shri R. P. Goel for the workman.

None for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-40012/60/87D.II(B) dated 5th September, 1988 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of S.D.O. Phones Dehradun in terminating the services of Shri Rattan Prakash s/o Shri Sada Nand daily-rated worker w.e.f. 31-7-87 (AN) is justified? If not, what relief the workman is entitled to?"

2. Rattan Prakash the workman in the statement of claim has alleged that he was appointed substantively on the post of Mazdoor, a group 'D' post on 10-5-86 and continued as such till 31-7-87. The work entrusted to him was of perennial nature and was continuing since long before his appointment and continued after his termination. The

management did not deliberately issue any letter of appointment with malafide intention to conceal the permanent nature of his appointment, thus depriving him of permanent service and keeping him unsecured on daily wages under constant fear of termination. He could not protest against the non-issuance of the letter of appointment for fear of termination and the management thus was out to exploit the said situation. He requested the management time and again for regularisation and confirmation of his services and also asked for equal pay for equal work. But the management did not accept his genuine and legitimate demand. His work and conduct has been satisfactory throughout and he had completed 509 days continuous service but he was paid only for 487 days. The termination of the workman was illegal and arbitrary and he was entitled to reinstatement with full back wages.

3. The Management in its written statement denied the allegations made in the statement of claim and alleged that he was never appointed on substantive basis against any post of mazdoor or a group 'D'. He was only engaged as casual labour to work on muster roll on daily rated basis and he worked on 10-6-83 to 31-7-86 from time to time. The job entrusted to him was not of personnel nature. No casual labour was engaged since removal of the workman and the work was not continuing which he was doing. One month notice as required was given to him which was received by him on 1-7-87 and there was thus no violation of any rule. No right of the workman has been denied, as he was not entitled to be absorbed in the regular employment which is done on the basis of a recruitment against the regular vacancies arising in due course. The Management examined Sh. S. K. Kapoor MW1 while the workman himself appeared as WW1. Both these witnesses have stated what was alleged in the written statement and statement of claim respectively. None appeared for the management on 19-6-91 or 20-6-91 but written arguments had been filed by them earlier.

4. I have heard representative for the parties and have gone through the record.

5. The representative for the management has urged that the allegation that the workman was appointed on substantive basis was rebutted by the workman himself in his cross-examination when he admitted that he was appointed on casual basis and not on regular basis and he was paid daily wages on muster roll. The management witness has also reiterated this fact and stated that the workman was assigned duties as casual labour and no permanent assignment was either given to him nor anticipated.

6. The workman representative on the other hand has urged that the record of the whole case is with the management and they have not intentionally shown the workman in employment on regular basis. The workman being under the threat of termination could never insist for issuance of any letter regularising his services. The one month notice given to the workman would not serve the requirements of law and his termination was thus illegal. He has also referred to a case 'Daily Rated Casual Labour Employed under P&T Department through Bhartiya

Dak In Mazdoor Manch Vs. Union of India & National Federation of P & T Employees' through its Secretary General and another Vs. Union of India cited as 1988 SCC (L&S) 138 regarding the equal pay for equal work to all casual workers and also granted them temporary status with direction to the Government to prepare a scheme on rational basis for absorbing the casual labours as far as possible who were continuing in this department for a period of more than one year.

7. After having gone through the points urged before me by the Representative for the parties and the points stated in their written arguments, I am of the considered view that the decision regarding equal pay for equal work does not come into picture in this case of termination because the workman was at liberty to file an application under section 33-C(2) of the I. D. Act to claim wages if he has been paid less than he was entitled to under the law. This reference is not in respect of wages but it is regarding the correctness or otherwise of the termination of the workman. The workman in his statement of claim reiterated that he was posted against a substantive post but he could not produce any evidence to prove this fact. Rather in this cross-examination he himself admitted that he was a casual labour on daily rated basis. The recruitment of regular employees is made according to some procedure of recruitment which the government department are supposed to follow. The casual labour is appointed against the available work and after the completion of the said work the services are terminated and the workman relieved. In the instant case the workman has himself received the notice dated 26-6-87 on 2-7-87 asking him that from 31-7-87 his services were no longer required as the work for which he was engaged as nearing the completion. The appointment of a temporary hand for a contingent work was not illegal nor does it give to the workman any right to get absorbed permanently unless there is any such scheme of the department or he could be absorbed under any scheme laid down by the department under the directions of the Hon'ble Supreme Court. That was not the case of the workman in his statement of claim nor is there any such reference to see as to whether the workman was in the category of persons who should have been absorbed according to the scheme of the Hon'ble Supreme Court as laid down in the case referred by the workman in his written arguments. Keeping in view my discussion above I am of the opinion that since the compliance of one month notice was made by the management so the termination of the workman services was not proved by the workman in any way to be illegal and the management has on the other hand established it to be according to law. I, therefore, held that the termination of the workman was fully justified but leave the parties to hear their own costs keeping in view the circumstances of the case.

GANPATI SHARMA, Presiding Officer
[No. I-40012/60/87-D.II(B) (Pt.)]

नई दिल्ली, 12 नवम्बर, 1991

का.घा. 2981 - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार ने शाहरत काउन्सिली, जबलपुर के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों

के बीज, प्रनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिकरण जबलपुर के पचपट को प्रकाशित करता है, आ केन्द्रिय सरकार को 7-11-91 का प्राप्त हुआ था।

New Delhi, the 12th November, 1991

S.O. 2981.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Gray Iron Foundry, Jabalpur and their workman, which was received by the Central Government on 7-11-91.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL CUM-LABOUR COURT, JABALPUR (M.P.).
Case No. CGITLC(K) (94) 1986

PARTIES .

Employers in relation to the management of Gray Iron Foundry, P.O. VFJ, Jabalpur (M.P.)

AND

Their workman Shri Chhedilal S/o Shri Pardeshi Village Kandra Kehra, Post Pangar, PS Pangar, Distt. Jabalpur (M.P.).

APPEARANCES :

For Workman—Shri N. P. Pande, Advocate.

For Management—Shri L. K. Mathur.

INDUSTRY : Iron Factory DISTRICT : Jabalpur (M.P.)

AWARD

Dated : October 29th, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-14012/26/85-D.II(B) Dated November, 1986, for adjudication of the following dispute :—

“Whether the action of the management of Gray Iron Foundry, PO VFJ, Jabalpur, in removing Shri Chhedilal S/o Shri Pardeshi from service with effect from 8-7-83, is justified? If not, to what relief, the workman concerned is entitled?”

2. This is a case of a confirmed Crane Driver Mobile 'B' who was charge-sheeted for (1) Irregular attendance and lack of devotion to duty; and (2) absenting from duty without intimation/prior sanction of leave with effect from 4-3-82 vide charge-sheet dated 15-4-1982. It has also not been denied that the workman was given the following punishment from time to time for absenting from duty regularly in the past :

- (1) Censure on 19-3-80.
- (2) Stoppage of one increment on 20-7-80.
- (3) Stoppage of two increments on 13-10-80
- (4) Reduction by one stage in the time scale of pay on 28-2-82.

3. Vide Proceedings dated 14-9-90 this Tribunal held that the Legality of the departmental enquiry is not being challenged and hence the question of management to lead evidence would not arise. Thus on the following issues—

1. Whether the enquiry is proper and legal?
2. Whether the management is entitled to lead evidence before this Tribunal?

this Tribunal held that this enquiry is proper and legal and it is not necessary to lead evidence before this Tribunal. The case was fixed for remaining following issues, but nobody came forward to adduce evidence and after oral and written arguments the case was fixed for award :

3. Whether the punishment awarded is proper and legal?
4. Whether the termination/action taken against the workman is justified on facts of the case?
5. Relief and costs.

4. Management says that it is a sovereign function and is not an industry within the meaning of Sec. 2(j) of the I.D. Act. While raising various other objections the management had sought to lead oral evidence and claimed that the workman is not entitled to any relief.

5. Workman says that he was sick for the period from 22-5-83 to 13-7-83 for 54 days only and when he attended the factory on 14-7-83 was not permitted to enter inside the gate and was told that he is removed from service.

6. Whatever the case may be, the workman has not been able to prove that he was sick or he had applied for leave or that he was not absent even for the days shown unauthorised. Merely saying that he had sent the information through his colleagues does not prove anything [(Statement of workman para 4(c))].

7. Having gone through the entire pleadings, documents and the written arguments I am of the view that the management had no other alternative but to remove him from service. If it was a case simpliciter of absenteeism for a particular period it may have been sympathetically considered. But the workman was habitual and he did not take lesson despite various punishments inflicted on him.

8. I need not say that in various pronouncements Supreme Court, High Courts as also this Tribunal has held that the establishments under the Ordinance Factories are industries within the meaning of Sec. 2(j) of the I.D. Act. So is the case of Gray Iron Foundry which is a part of Gun Carriage Factory. It is also covered under the provisions of Sec. 2(j) of the I.D. Act.

9. Reference has no force and is liable to be rejected. Reference is accordingly answered as follows.—

The action of the management of Gray Iron Foundry PO VFJ, Jabalpur, in removing Shri Chhedilal S/o Shri Pardeshi from service with effect from 8-7-83 is justified. He is not entitled to any relief. No order as to costs.

V. N. SHUKLA, Presiding Officer
[No. I-14012/26/85-D.II(B) (Pt.)]

का.प्र. 2982.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रिय सरकार गुन कैरिज फैक्ट्री के प्रबन्धन के संबंध निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिकरण, जबलपुर के पक्षपट को प्रकाशित करता है, जो केन्द्रिय सरकार को 7-11-91 को प्राप्त हुआ था।

S.O. 2982.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Gun Carriage Factory and their workmen, which was received by the Central Government on 7-11-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M. P.)

Case No. CGIT/LC(R) (67)/1990.

PARTIES :

Employers in relation to the management of Gun Carriage Factory, Jabalpur.

AND

Their workman, Shri Raj Kumar Kostha S/o. Shri Premlal Kostha, Ex-Messenger Boy, House No. 219, Katra (Betla), Post Office Adhartal, Jabalpur (M.P.)-482001.

APPEARANCES :

For Workman : Shri S. K. Rao, Advocate.

For Management : Shri M. Patel, Advocate.

INDUSTRY : Gun Carriage Factory.....

DISTRICT : Jabalpur (M. P.).

AWARD

Dated : 28th October, 1991.

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-14012/18/89-D. 2(B), dated 21st February, 1990, for adjudication of the following dispute :—

“Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Rajkumar Kostha S/o. Shri Premlal Kostha, Ex-Messenger Boy w.e.f. 23-11-1985 is justified? If not, to what relief the workman concerned is entitled?”

2. Facts leading to this case are that the workman, Shri Rajkumar Kostha, Ex. Ticket No. 965/NIE, M/boy was appointed in Gun Carriage Factory initially on probation for a period of two years which could be further extended in lieu of his father who was declared medically unfit due to accident and chronic disease. He continued his service upto 23-11-1985 and his services were terminated on the same date without giving any notice or assigning any reason or making any enquiry. It is also not dispute that neither he was given notice or compensation under Section 25-F of the I. D. Act.

3. The workman says that he was appointed on 25-2-1981. He had completed four years nine months services and therefore he had become permanent employee of the department. His termination amounts to retrenchment and is violative of the provisions of Section 25-F of the I. D. Act as also amounts to unfair labour practice covered under item No. 10 of the Fifth Schedule of the I.D. Act. He is, therefore, entitled to reinstatement with full back wages and consequential benefits.

4. Management says that he was initially appointed on probation for a period of two years on 6-3-81. The terms of appointment were governed by conditions in the appointment letter according to which the probationary period could be further extended if the performance of the individual was not found satisfactory. Accordingly Shri Rajkumar was thrice advised to improve his performance failing which his services will be terminated without any further notice. Despite repeated warning and advisory notice he did not show any improvement. His period of probation was extended from time to time to give him an opportunity to improve his performance. Ultimately his services were terminated. His termination does not amount to retrenchment. That apart, management of Ordnance Factories are holding sovereign functions and are not governed by I. D. Act. Reference is, therefore, liable to be rejected.

5. Reference was the issue in this case.

FINDINGS :

6. Workman has filed three documents Ex. W/1 to Ex. W/3 and has examined himself as W.W. 1 in support of his case while the management pleaded to remain absent.

7. Ex. W/1 is appointment letter dated 25-2-1981. Terms and conditions of service as per Cl. 2(a) to (d) are as follows :—

- (a) The first two years of the period of your service will be treated as probationary period which may be extended by a further period of 3 months.
- (b) After the satisfactory completion of the probationary period, your appointment and service will be temporary.
- (c) Your service may be terminated at any time during the probationary period by either side without notice.
- (d) After the probationary period, the termination of your service will require one month's notice in writing on either side.

8. Ex. W/2 is the letter dated 6-7-1985 given by the management to the workman asking him to improve his work and his probationary period was extended.

9. Ex. W/3 is the letter dated 13-11-1985 of the management according to which his services were terminated with immediate effect, i.e., with effect from 23.11.85 (A/N).

10. Workman says on affidavit who was cross-examined by the management that his services were satisfactory. There is nothing contrary to this on

the record. That apart, from the evidence before this Tribunal it is crystal clear that the workman had worked from 25-2-1981 to 23-11-1985, i.e., for a period of more than four years. Statement of claim of the management para 6, it has been pointed out referring to Article 202 of C.S.R. that "While the normal probation may certainly be extended in suitable cases, it is not desirable that an employee should be kept on probation for years as happens occasionally. It is, therefore, suggested that save for exceptional reasons, no employee should be kept on probation for more than double the normal period. "Here in the instant case the normal period of probation was two years which could be further extended for a period of three months. Even including this extended period of three months the workman had worked for more than four years and six months. Thus his probationary period could not be extended as per Article of C.S.R. referred by the management itself.

11. That apart, the Clause 2(c) of Ex. W/I is contrary to the law laid down under Section 25-F of the I. D. Act and the provisions of law applies to the probationers also (Management of Karnataka State Transport Corporation, Bangalore Vs. M. Boraiah and another AIR 1983 SC 1320, Para 13).

12. I need not repeatedly point out that the management is an 'industry' and is covered by the I. D. Act and I have repeatedly held so. Similar view has been taken by M. P. High Court and the Supreme Court.

13. Thus the termination of the workman is void ab initio. He is entitled to be reinstated with full back wages, regularisation and all other consequential benefits arising therefrom with continuity in service.

14. Reference is accordingly answered as under :—

"The action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Rajkumar Kotha S/o. Shri Premal Kotha, Ex-Messenger Boy w.e.f. 23-11-1985 not justified. He is entitled to be reinstated with full back wages and all consequential benefits including continuity in service. No order as to costs."

V. N. SHUKLA, Presiding Officer.
[No. 14012/18/89-D. II(B) (Pt.)]

का.प्र. 1983 -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार इन्डियन इंजीनियर टेल्ग्राफ जबलपुर, के प्रबन्धन के संबंध निष्ठाओं और उनके कर्मचारियों के बीच, अनुबंध से निष्ठा औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचवट की प्रकाशित करता है, जो केन्द्रीय सरकार को 7-11-91 को प्राप्त हुआ था।

S.O. 2983.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Divisional Engineer Telegraph, Jabalpur and their workmen, which was received by the Central Government on 7-11-1991.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR. (M. P.)

Case No. CGIT/LC(R) (102)/1990

PARTIES :

Employers in relation to the management of Divisional Engineer, Telegraph, Jabalpur (M. P.).

AND

Their workman. Shri Abdul Hafiz S/o. Shri Abdul Aziz, Ex-Casual Labour, 351-B, Gate No. 1, Sadar Bazar, Jabalpur, (M.P.)-482001.

APPEARANCES :

For Workman : Shri S.K. Mukerjee, Advocate.

For Management : Shri J. Chaudhary, Advocate.

INDUSTRY : Telegraph

DISTRICT : Jabalpur (M. P.).

AWARD

Dated, October 28th, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-40012/105/89-D. 2(B), dated 30th January, 1990, for adjudication of the following dispute :—

"Whether the action of the management of Divisional Engineer, Telegraph Department, Jabalpur in terminating the services of Shri Abdul Hafiz S/o. Shri Abdul Aziz, Ex-Casual Labour with effect from 11-1-1989 by an order is justified? If not, to what relief the workman concerned is entitled?"

2. The case of the workman in brief is that he was appointed as casual labour by the management at Jabalpur under the Divisional Engineer, Telegraph Jabalpur in the month of August 1979. He was regularly employed and has satisfactorily performed his duties. He was not given regular pay scale and was not regularised in violation of the provisions of Art. 14 & 16 of the Constitution as also Article 7 of the International Covenant on Economic, Social and Cultural Rights, 1966. His services were all of a sudden terminated with effect from 11-1-1989 without giving him any retrenchment compensation or retrenchment notice under Sec. 25-F of the I. D. Act. He is therefore entitled to be reinstated with full back wages, regularisation and all other benefits with interest thereon @ Rs. 12% per annum.

3. Management pleaded to remain absent and despite number of adjournments having been granted i.e., on 18-5-1990, 19-7-1990, 16-8-1990, 10-9-1990, 1-11-1990 and 28-2-1991 nobody appeared for the management nor any written statement was filed. The case ultimately proceeded ex parte against the management.

4. Workman has examined himself in support of his case which shows that he has been serving since

August, 1979 i.e. for last about nine years. Obviously, he has worked as casual labour for such a long period and his services were terminated without any notice or compensation in violation of the provisions of Section 25-F of the I. D. Act. Surprisingly enough he has not been regularised despite his putting such a long period of service.

5. He has also not been issued notice or paid retrenchment compensation as provided by Section 25-F of the I. D. Act. Thus his termination is void ab initio. He is entitled to be reinstated with full back wages and all consequential benefits arising therefrom. His case should be considered for regularisation from the appropriate date and all other benefits should be given to him. Management shall also pay Rs. 1000/- to the workman including interest. This amount shall be recoverable from the defaulting officer.

6. Reference is accordingly answered as under :—

The action of the management of the Divisional Engineer, Telegraph, Jabalpur in terminating the services of Shri Abdul Hafiz S/o. Shri Abdul Aziz, Ex-Casual Labour by an order with effect from 11-1-1989 is not justified. He is entitled to be reinstated with full back wages and all consequential reliefs arising therefrom. His case should be considered for regularisation from the appropriate date and all other benefits should also be given to him. Management shall further pay Rs. 1000/- including interest as costs to the workman which shall be recoverable from the defaulting officer.

V. N. SHUKLA, Presiding Officer.
[No. L-40012/105/89-D. II(B) (Pt.)]
K. V. B. UNNY, Desk Officer.

नई दिल्ली, 12 नवम्बर, 1991

का. प्र. 2984.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार, मै. बी.सी.सी.एल. के प्रबन्धन के संलग्न नियोजकों और उनके कर्मचारियों के बीच, प्रत्यक्ष में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (म.-1), धनबाद के पंचरट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-91 को प्राप्त हुआ था।

New Delhi, the 12th November, 1991

S.O. 2984.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. I), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen which was received by the Central Government on the 6-11-1991.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 50 of 1990

PARTIES :

Employers in relation to the management of M/s. B.C.C. Ltd. in relation of Gazitand Colliery.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers : Shri B. Joshi, Advocate.

For the Workmen : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 25th October, 1991

AWARD

By Order No. L-20012(295)/89-I.R. (Coal-I), dated, the 27th February, 1990, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of M/s. B.C.C. Ltd., in relation of Gazitand Colliery is justified in denying employment to 33 ex-delisted Casual Workmen (given in Annexure) on the ground amongst others that they were not genuine persons? If not, then to what relief the workmen are entitled to?”

ANNEXURE

1. Binod Kumar S/o Basudev Tiwari
2. Samir Kumar Choubey S/o A.C. Choubey
3. Janardhan Pandey S/o Late Motilal Pandey
4. Ajoy Kr. Tiwari S/o Taralal Tiwari
5. Krishna Kr. Tiwari S/o Ramdhan Tiwari
6. Rajendra Pandey.
7. Ajmullah Khan.
8. Rajdee Pandey
9. Badrinath Mishra
10. Rajnath Mishra
11. Dhanraj Yadav
12. Sukhram Yadav
13. Khedan Bhuian
14. Ram Narain
15. Bhagwan Yadav
16. Oma Parakash Singh
17. Ajoy Kumar Patwa
18. Bijoy Kumar
19. Birendra Tiwari S/o Late Surendranath Tiwari
20. Harendra Tiwari S/o Late Bindeshwar Tiwari
21. Basudev Tiwari S/o Ram Sathi Tiwari
22. Paroshnath Pandey
23. Nirmal Singh

24. Yogendra Pandey
25. Ramkant Singh
26. Joy Parakash
27. Paradeep Kumar
28. Shyam Bahadur Gope
29. Kodar Singh
30. Narendra Singh
31. Ishwar Sau
32. Kedar Nath
33. Mihir Kumar Dubey.

2. The case of the management of Gazlitand Colliery of M/s. B.C.C. Ltd, as disclosed in the written statement-cum-rejoinder, details apart, is as follows :

During the period from 1973 to 1976 there were three types of wagon loaders, namely permanent, casual and unlisted/delisted casuals. Whenever large number of wagons were placed on the railway siding for loading coal within five hours, the management used to employ permanent and casual wagon loaders at first and thereafter delisted/unlisted casual wagon loaders if so required for loading excess wagons. The names of such delisted/unlisted casual wagon loaders were not entered in Form 'B' Register and any one willing to do the job was employed on a particular date for loading a particular wagon. Such workmen were paid wages and bonus and, as such, their names appear in the wage sheets and Bonus Registers. These workmen were piece-rated workers. There was no system of management of unlisted/delisted casual workers on the time rated jobs or on piece-rated jobs where there was scope for regular employment. At Gazlit and Colliery there was a group of unlisted/delisted casual wagon loaders only during the period from 1973 to 1976. There was no other delisted/unlisted casual workman carrying on jobs other than wagon loading. The management issued a circular dated 4-8-1980 for enrolment of delisted/unlisted casual wagon loading as badli miner/loaders. According to that circular, the genuine unlisted/delisted casual wagon loaders, who had put minimum 75 days attendance during the years 1973 to 1976 were enrolled as badli miner/loaders. Since the names of the concerned persons were not found in the Bonus Registers of casual workers of all types for the period 1973 to 1976 of Gazlitand Colliery their names were not included in the list of badli miner/loader prepared on the basis of that circular dated 4-8-1980. The concerned persons themselves or any union on their behalf did not raise any demand from 1980 till 1987 to get them enrolled as badli miner/loader. In the course of years attempts have been made to manipulate old Bonus Registers of 1973 to 1976 of different collieries to get the names of job seekers entered and to demand for employment for those persons. The manipulations of Bonus Registers were/are being done obviously by the clerks belonging to different trade unions with the connivance of some officers. The Bonus Registers for the years 1973 to 1976 of Gazlitand Colliery have also been manipulated and the names of the concerned workmen have been entered during the period from 1980 to 1987, for the purpose of demanding job for them. In the course of concili-

ation proceeding it was appointed out that the bonus registers were manipulated to get the concerned persons entered into employment. The Registers were not required to be presented after completion of auditing and the same were dumped in the open room accessible by all and used by all the clerks, supervisors and officers of the colliery. The concerned persons themselves or their relatives paid money to certain staff or officers and got the registers manipulated. They are not genuine workmen of the colliery. Manipulation of Bonus Registers can be found from the intrinsic evidence of the registers themselves, but the recent trend of the authorities is that the management must prove who has done the manipulations and whether any person has been punished for doing such manipulation. If the management can not prove manipulation, the documents, in spite of manipulations, are considered as genuine by the authorities which has given rise large scale malpractice. It is difficult to prove such a charge against any particular staff or officer as in the course of years several officers and staff handled the documents and the same were even filed in the Courts and Tribunals and many persons have handled these documents. The concerned workmen are advancing their claims as genuine delisted casual workers with the help of manipulated Bonus Registers of 1973 to 1976. The Asstt. Labour Commissioner(C), examined the documents in 1987 when a demand for employment of the concerned persons were raised by Sri Baran Das, the Branch President of the Union and he was satisfied that the concerned persons were not genuine workmen and that they adopted corrupt and malpractice to get their names entered in the Bonus Registers. The Ministry of Labour by letter dated 30-8-1988 intimated that the dispute on the demand for employment of the concerned workmen was unfit for reference. The present reference is based on confused thinking by rejecting intrinsic evidence available from documents and relying on superfluous materials and accepting falsity as truth. The concerned persons were never in the employment of the management during 1973 to 1976 and they had not worked in any capacity. The persons are mostly below 25 years of age and it is impossible for any of them to have worked in 1973 when they were below the age of 18 years. In the circumstances the management has submitted that the demand of the sponsoring union is false.

3. The case of the concerned workmen, as appearing in the written statement submitted on their behalf by the sponsoring union, Bihar Colliery Kamgar Union, briefly stated, is as follow :

The concerned workmen had been working at Gazlitand in the permanent nature of job since long with unblemished record of services. The management, with an ulterior motive to exploit the poor workmen designated them as casual workmen and thereby denied them all facilities available to a permanent workman. The management illegally and arbitrarily stopped them from service without assigning any reason and in violation of the mandatory provisions of Industrial Disputes Act. They represented their case before the management several times and the local management, appreciating the legal position, recommended their reinstatement and the same was forwarded by the then Agent of the Colliery to the

General Manager, Katras Area by a letter dated 16-3-1981. The aforesaid letter contains the names of the concerned workmen and their attendance in respective years. During that time a policy decision was taken by M/s. B.C.C. Ltd. for providing employment to all the casual workmen whosoever put in 75 days attendance during the years 1973 to 1976. In pursuance of the aforesaid policy decision the management had taken in employment a large number of workmen who had put in 75 days attendance in any of the calendar year during 1973 to 1976. The Agent of the colliery, by letter aforesaid recommended the cases of the concerned workmen alongwith others for employment as per the circular aforesaid, in view of the fact that they had put in more than 75 days attendance during the calendar years 1973 to 1976. Some of the workmen whose names appeared in the aforesaid letter of the Agent have already been provided employment by the management. Shri G. C. Ojha whose name appears in the list was not provided employment which ensued industrial dispute and in terms of the award passed by the Central Govt. Industrial Tribunal No. 2, Dhanbad, he has been reinstated in service by the management. The management was in need of workmen; so again circular was issued by Shri R.A.P. Singh on 8-9-1986 for giving employment to the casual workmen who had put in 75 days attendance during the calendar years 1973 to 1976. The concerned workmen represented their case before the management after the aforesaid circular, but the anti-labour management refused to settle the issue amicably and ultimately forced the union to raise an industrial dispute before the Asstt. Labour Commissioner (C), Dhanbad, which ended in failure due to adamant attitude of the management. The Government of India, Ministry of Labour, appreciating the legal position referred the dispute for adjudication by this Tribunal. The action of the management of M/s. B.C.C. Ltd. in relation to Gazlitand colliery in denying employment to the concerned workmen as per circular of 1980 and subsequent circular of 1986 was illegal, arbitrary, unjustified, vindictive and discriminatory in nature. The concerned workmen are genuine persons, but the management did not provide them employment in spite of their own circular. The management for the first time raised the begoy of genuinity and the union was ready to prove the genuinity of the concerned workmen before the Asstt. Labour Commissioner (C). Even so, the management refused to settle the dispute amicably which indicates that the plea of the management was not genuine. The concerned workmen should have been allowed to resume their duty from 1981 or at least 1986 but that has not been done by the management. In the circumstances, the union has prayed that the management be directed to allow the concerned workmen to resume their duties and to pay full back wages at least with effect from 1986, if not, with effect from 1980 with all consequential benefits.

4. In rejoinder to the written statement of the sponsoring union, the management has disputed that the concerned workmen were doing the job of permanent nature. Since they were never employed in the colliery, the question of treating them as casual workmen and stopping them from duty does not arise. The

entire case of the union is based a concoction and the Agent of the colliery did not forward the purported letter dated 16-3-1981 to the General Manager. The circular dated 4-8-1980 permitted the collieries to enroll badli miner/loaders as per requirements out of delisted/unlisted casual wagon loaders who had put more than 75 days attendance during the years 1973 to 1976. The Agent of the colliery sent a list of delisted/unlisted casual wagon loaders on the basis of Bonus Registers to the General Manager's office where the entire matter was examined. The circular of 1980 was meant for delisted/unlisted casual wagon loaders in the similar form as the circular of 4-8-1980. The management has denied that refusal to give employment to the concerned workmen was illegal, arbitrary, unjustified, discriminatory, vindictive or contrary to the policy decision of the management. When the dispute was raised by the self same union in 1987 for the concerned persons, the management for the first time pointed out to the A.L.C.(C) that the concerned persons were not genuine workmen. The later accepted the contention of the management and rejected the reference. The present reference has been referred due to incorrect report submitted by the A.L.C.(C), Dhanbad who did not want to tell the truth that the documents had been manipulated at the instance of the concerned persons.

5. In rejoinder to the written statement of the management, the sponsoring union asserted that it is false to state that during the years 1973 to 1976 there were only delisted casual wagon loaders, and that there was no other delisted/unlisted casual workmen carrying on jobs other than wagon loaders. According to the union, two circulars were issued for enrolling delisted/unlisted casual workmen. In pursuance of the circulars the Agent of the colliery initiated notesheet for enrolment of the concerned workmen alongwith other workmen. Many workmen whose names appeared in that notesheet were not provided employment without assigning any reason. It is absolutely false to suggest that the Bonus Registers for the years 1973 to 1976 of Gazlitand Colliery have been manipulated and that names of the concerned workmen had been inserted therein during the period 1980—1987 for the purpose of demanding jobs. It is absolutely false to allege that during the conciliation proceeding it was pointed out by the management that the Bonus Registers are manipulated to get the concerned workmen inducted into employment. The Bonus is on the management to prove the allegation that the Bonus Register was manipulated by the management's clerks/staff and that the management took action against the clerks and officers. Now-a-days it has become a fashion of some management's Advisers to take the plea of manipulation to prejudice the mind of the Court. It has been submitted by the union that the management has caused aspersion to the Court by stating that the documents were filed in the Court and Tribunal and many persons have handled those documents and that it is difficult to prove who received money and did the manipulation. It is absolutely false to allege that the Ministry earlier rejected the dispute being satisfied that the concerned workmen were not genuine. The workmen actual fact is that the Ministry rejected the dispute on the ground of delay, but when the actual

facts were brought to its notice, the Ministry, appreciating the facts, referred the dispute for adjudication.

6. The management, in order to sustain its action has examined MW-1 Purushottam Jha, Dy. Personnel Manager posted in Katras Area of M/s. B.C.C. Ltd. and laid in evidence a number of documents which have been marked Exts. M-1 to M-10.

On the other hand, the sponsoring union has examined WW-1 Janardan Pandey, one of the concerned workmen and laid in evidence some items of documents which have been marked Exts. W-1 to W-2 and the award passed by the Central Govt. Industrial Tribunal No. 2, Dhanbad, in reference No. 25 of 1986.

7. Admittedly, Gazlitand Colliery belongs to M/s. B. C. C. Ltd. and the said colliery falls within the jurisdiction of Katras Area of M/s. B. C. C. Ltd. The concerned workmen have been claiming employment on the premises that they were engaged in permanent nature of job by the management of the colliery and that the management, in order to exploit them, treated them as casual workmen and thereby denied them all the facilities of permanent workmen. In opposition to the claim of the concerned workmen, the management has emphatically deined that they are genuine workmen and ever worked in the said colliery. Accordingly to the management there were three types of wagon loaders—permanent, casual and unlisted/delisted casuals during the period from 1973 to 1976 and that the management used to employ permanent and casual wagon loaders at first instance and thereafter delisted/unlisted casual wagon loaders, if so required for loading excess wagons and that the names of such delisted/unlisted casual wagon loaders were not entered in Form 'B' Register. It is the further case of the management that at Gazlitand Colliery there was only a group of unlisted/delisted casual wagon loaders during the period 1973-76 and there was no other delisted/unlisted casual workman carrying on jobs other than wagon loading.

There is no evidence on record to indicate that Gazlitand colliery was having a Certified Standing Orders of its own for its workmen. In such circumstances Model Standing Orders for the Industrial Establishments in Coal Mines was applicable to the workmen of this colliery. Model Standing Order envisages classification of workmen as follows :

- (i) Permanent; (ii) Probationer;
- (iii) Badli or substitute; (iv) Temporary,
- (v) Apprentice and (vi) Casual.

There is no provision in the Model Standing Orders for classification of workmen as delisted/unlisted casual workmen. MW-1 Sri. P. Jha, Dy. Personnel Manager posted at Katras Area has also admitted that there is no provisions in the Standing Order for classification of a workman as delisted casual wagon loader and there was no circular from the Head Office defining the meaning of delisted casual wagon loader. Thus, it is seen that classification of workmen as delisted/unlisted casual wagon loader as done by the management has got no assurance either from Model Standing Orders or from

the circular of the Head Office of the company. Then again, according to the management the names of such delisted/unlisted casual wagon loaders were not entered in Form 'B' Register. This procedure/action is again a departure from the provision of Sec. 48 of the Mines Act which envisages that for every mine there shall be kept in the prescribed form i.e. in Form 'B' a register of all persons employed in the mine showing certain particulars of the persons so employed. Considering these facts and circumstances, it is evident that the management of the colliery was not strictly following the statutory requirement in the matter of classification of workmen and keeping records of the employment of all types of workmen.

8. It is the case of the management that at Gazlitand colliery there was no other delisted/unlisted casual workmen carrying on the job other than wagon loading during the years 1973 to 1976. WW-1 Janardan Pandey, one of the concerned workmen, has stated that he was working in Gazlitand colliery as Shale Picker since 1973 and that other concerned workmen, known to him, were also working in that colliery as Shale Pickers from 1973. The Agent of the colliery submitted a list of casual shale pickers working in the colliery to the General Manager, Katras Area, by his letter dated 16-3-81. This letter was written as per the requirement of the General Manager, (R), Karmik Bhavan with reference to his circular dated 5-12-80 (Ext. W-2). The list enclosed with that letter included the names of all the concerned workmen and as I have stated before, all of them were described in the letter as casual shale pickers. The authenticity of this letter has not been assailed. But, nevertheless MW-1 Sri P. Jha has stated that he consulted Sri. C. P. Thakur, the then Agent of the colliery and was given to understand by the latter that he signed the letter Ext. W-2 on the basis of facts emerging from the Bonus Register. There is no evidence on record to indicate that Sri C. P. Thakur has since left the mortal world or is not in the employment of the management. Hence, the statement of Sri Jha that he was told by Sri C. P. Thakur that he (Thakur) signed the letter on the basis of facts emerging from the Bonus Register is a piece of tell-tail and hearsay evidence.

9. The next question that comes to the fore of my consideration is whether the Bonus Registers are genuine documents or they are manipulated documents as alleged by the management.

The Bonus Registers for the years 1973-75 have been produced by the management and undeniably the names of the concerned workmen appear in the Bonus Registers for the years 1973-74. These registers, according to MW-1, were produced before the Conciliation Officer and the management did not take the plea at that stage that the names of the concerned workmen did not appear in the Profit-sharing Bonus Registers, but which should have appeared in consideration of the Bonus Registers. It appears to be the case of the management that the Bonus Registers for the years 1973-74 are not genuine documents because the Profit sharing Bonus Register and abstract from Quarterly Bonus Register

and the statement in Form 'V' in respect of C. M. P. F. for the relevant period do not contain the names of the concerned workmen. According to Shri Jha, the management used to give Profit-sharing Bonus to its workmen who had put in attendance for 30 days or more and that unlisted/delisted casual wagon loaders were also used to get profit-sharing bonus. According to him, the names of any workmen who have worked at least for 40 days in underground mine and 60 days on the surface will appear in Form 'V' Register. He has further stated that the name of any employee whose name appears in Bonus Register will automatically appear in the abstract or Profit-sharing Bonus Register. But WW-1 Janardan Pandey has stated that they were never profit-sharing bonus and they were never made members of the provident fund. He has firmly asserted that no delisted casual wagon loaders were members of provident fund. I have already pointed out from the evidence that the management was not following the normal statutory requirement by classifying workmen by delisted/unlisted casual workmen and not keeping record properly of workmen employed in the colliery in Form 'B' Register. This being so, there is no assurance that the management should maintain properly Profit-sharing Bonus Registers (Ext. M-7 and M-7(1)), abstract of Quarterly Bonus Register (Ext. M-8) and statement in Form 'V' in respect of C. M. P. F. (Ext. M-10). That apart, the evidence of WW-1 Janardan Pandey indicates that they were never paid profit-sharing bonus or made members of C. M. P. F. Over and above, the Agent of the colliery by his letter referred to above enclosing therewith a list of casual workmen (Ext. M-2) disclosed that the concerned workmen and others have worked for more than 75 days in 1973-74. The plea taken by the management through MW-1 that the list was prepared on the basis of Bonus Register has not been proved. This being the position, I am constrained to state that Profit-sharing Bonus Register, abstract of Quarterly Bonus Register and statement of Form 'V' do not reflect the true state of affairs.

10. The management has alleged in its written statement that manipulation of Bonus Register is evident from the intrinsic evident from the registers themselves and that over the years the registers have been handled by several staff and officers and the same were filed even in the Courts and Tribunals and many persons have handled those documents and in the circumstances it is very difficult to prove who is or are the authors of these manipulation. MW-1 Sri Jha has stated that the Bonus Registers, kept in the office room, are accessible to the officers of the colliery and members of the staff and he is not in a position to prove by any person who has resorted to malpractice or manipulation by inserting the names of the concerned workmen in Bonus Register. Indeed, Bonus Register is a valuable piece of document and the management in its carelessness has kept the document in the office room which is accessible to the officers of the colliery and members of the staff. The management cannot avoid the odium of carelessness in such circumstances. In the written statement the management

has no spared the Courts and Tribunals where manipulation allegedly could have taken place. This is indicative of indiscriminate and irresponsible attitude of the management to lay the blame on others while in difficulties and such attitude is not only deplorable but also condemnable. The management could not prove the fact of manipulation by any evidence. It appears that whenever management will be in a quagmire, it will resort to the theory of manipulation and in the process not sparing manipulation at the level of Courts and Tribunals. However, the plea of manipulation of Bonus Registers is knocked down by the intrinsic evidence as manifested in the letter of the Agent enclosing a list of casual shale pickers which includes the names of the concerned workmen. Hence, the theory of the management that there was no delisted/unlisted casual workmen other than wagon loaders is blown out. This being so, I come to the firm conclusion upon the evidence on record that the Bonus Registers are genuine documents and they cannot be discarded from evidence.

11. The Bonus Registers and list provided by the Agent alongwith his letter establish the fact that the concerned workmen were employed in Gazitiant Colliery as casual shale pickers during 1973-74 and in both the years they have completed more than 75 days attendance (Ext. W-2).

It is the case of the management that a circular dated 4-8-80 was issued by the management for enrolment of delisted/unlisted casual wagon loader as badli miner/loaders. This circular has not been produced. Shri Jha has stated that the circular of 1980 was for enrolment of delisted/unlisted wagon loaders as badli miner/loaders. He could not produce any solid documentary evidence in support of this statement. The management has further asserted that in 1986 a circular was issued which was similar to the circular of 1980. The management has not produced the circular of 1986. But the sponsoring union has produced it. I will glean hereinbelow the relevant portion of the circular (Ext. W-1).

"Company's board has already approved the additional requirement of Miners/Loaders in this company. This matter was also discussed in the Central Consultative Committee Meeting held on 26-4-1986 wherein some important decisions have been taken. The entire matter was also explained to the General Managers in the co-ordination meeting taken up by the CMD on 26-4-1986. It has been decided to meet this additional requirement through the following sources :—

1. Partly by implementing awards/settlements agreements and by fulfilling the commitments and assurances given by the management.
2. Partly by recruitment through Employment Exchange from amongst SC/ST Candidates and land looser for which registration and selection test etc. have been scheduled to take place from 6th May to 10th May, 1986.

As regards cases recorded in para—1 above, the following categories will be covered :

1. Cases of Miners/Loaders who have been dismissed/terminated due to long absentism and there are awards and settlements for taking them back in employment.
2. Cases of Minors/Loaders whose names have been removed from the colliery roll without following the normal disciplinary procedure and their disputes are pending either in conciliation or before the Tribunal for adjudication or are pending with the management for disposal.
3. Delisted casuals.
4. Underground Contractors' workers engaged in prohibited category.
5. Co-operative workers.
6. Voluntary retirement cases.
7. Pending cases of land losers.
8. Agreements with the union and assurances given to the unions/State Government for giving employment on different grounds including compassionate ground cases. (This is limited to specific agreement/assurances).

With a view to implement our decision with regard to these cases following action is required to be taken in each type of case :

3. Delisted casuals

These cases will also be finalised at Area level in accordance with the policy decision of the company i.e. only such delisted casual will be considered who have put in 75 days attendance during the period from the year 1973 to 1976 subject to the following further conditions :—

- (i) The age of the candidates should not be more than 40 years
- (ii) He will have to pass physical/job test.
- (iii) He should be medically fit.
- (iv) There should be proper verification of their attendance from authentic records.
- (v) There should be proper identification of each individual."

In view of this circular the concerned workmen, delisted casual shale pickers as they are, are entitled to be considered for employment in the establishment of the management as miner/loader provided they fulfil the conditions as laid down in the circular.

12. It appears that out of the list provided by the Agent of the colliery one Gokul Chandra Ojha, Ex-Shale Picker of the colliery has been given employment by the management. Shri Jha has admitted that Sri Ojha was reinstated in services in terms of the award of Central Govt. Industrial Tribunal No. 2, Dhanbad. Then again, one Prem Kumar Singh, Ex-casual shale picker of Gazlitand colliery whose name was included in the list provided by the Agent of the colliery has been given employment. WW-1

Sri Pandey has stated that Jagannath Singh, Pradip Kumar Tiwary, Dimp Kumar, Prem Kumar Singh and one Dutta whose names appear in the list of the Agent of the colliery have got employment under the management and they have become permanent. This being so, it appears that the management has given employment to some of the casual shale pickers according to its choice, by order of the Tribunal and also by mutual settlement. Presumably the concerned workmen have not been given employment as the management considered them to be not genuine workmen. But I have already pointed out that the names of the concerned workmen appear in the Bonus Register for the year 1973-74. Despite the contention of the management that the Bonus Registers are not genuine documents I have held that the same are genuine documents because the management could not prove manipulation of the Bonus Registers by any cogent and hard evidence. Then again, the management could have assailed the Bonus Registers by producing the Attendance Register which, according to MW-1 Sri Jha, includes the names of all workmen working in the colliery. Despite notice of the union requiring the management to produce the Attendance Register, the management has not produced the same. WW-1 Janardan Pandey has stated that all the concerned workmen including himself were working as shale picker in Gazlitand colliery and that the management stopped them from work in between 1975-76. He has further stated that they were working at the railway siding of Gazlitand colliery and Laru Gopal Choubey, Loading Babu used to supervise their work. There is no evidence on record to indicate that Laru Gopal Choubey was not employed in the colliery as Loading Babu or that he did not supervise the work of the concerned workmen. In the circumstances, there is no scope for holding that the Bonus Registers are not genuine documents. The list of casual shale pickers as provided by the Agent of the colliery included the names of the concerned workmen. Hence, I hold that the concerned workmen are genuine workmen and were employed on the job of shale pickers in Gazlitand Colliery.

13. Job description of shal pickers as per J.B.C.C.I. for Coal Industry is as follows :

"A workman employed to separate shale or shally coal from true coal in the picking belt or on the rubber belt."

The job of shale picker is a permanent nature of job according to Central Coal Wage Board Recommendation and the concerned workmen were employed on that job.

14. The management has contended that the appropriate Government refused to make a reference of the demand of the union for adjudication on the report of the A.L.C.(C) that the concerned workmen were not genuine workmen. But no evidence has been produced before me that the A.L.C.(C) considered the concerned workmen as not genuine workmen. On the other hand, it appears from the letters of the Ministry dated 30-8-88 (Ext. M-3 and 27-12-90 (Ext. M-3) that the appropriate declined to make reference of the dispute for adjudication on earlier occasion on the ground of delay. Hence, the contention of the management that the A.L.C.(C) was

satisfied that the concerned workmen were not genuine workmen has not been proved at all.

15. Considering the evidence on record and facts and circumstances of the case, I come to the conclusion that the concerned workmen were employed in Gazlitand Colliery as casual shale pickers during 1973-74 and that each of them put in 75 days attendance during 1973-74 and the management stopped their service in between 1975-76.

16. In terms of the circular of the management of 1980, the concerned workmen are entitled to get employment as miner/loader in Gazlitand Colliery. The management, as I have stated before, stopped them from duty in between 1975-76. This being so, they are entitled to be reinstated in service. Had they been given employment earlier by the management, they would have by this time acquired the status of permanent workmen as some of their co-workers have already acquired.

17. Hence, the following award is rendered—the action of the management of M/s. B.C.C. Ltd. in relation to Gazlitand Colliery in denying employment to ex-delisted casual concerned workmen who are genuine workmen is not justified. The management is directed to reinstate them in service as miner/loader in Gazlitand Colliery subject to their fulfilling the condition as laid down in the circular of 1986 and to pay them wages from the date they join their duty as per N.C.W.A. IV.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer.
[No. L-20012|295|89-IR(Coal-I)]

नई दिल्ली, 13 नवम्बर, 1991

का.आ. 2915. --औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. भारत कोकिंग कोल लि. का भोवरा (एन) कोलियरी के प्रबंधन के संबंध में निम्नलिखित आदेशों के, बावजूद अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं.-1) घाबरा के पंचद को प्रकाशित करता है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 13th November, 1991

S.O. 2985.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bhowra (N) Colliery of M/s. Bharat Coking Coal Ltd. and their workmen which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 145 of 1989.

PARTIES :

Employers in relation to the management of Bhowra (N) Colliery, P.O. Bhowra, Distt. Dhanbad of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri R. S. Murthy, Advocate.

For the Workmen—Shri J. D. Lal, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 31st July, 1991.

AWARD

By Order No. L-20012|185|89-I.R. (Coal-I), dated, the 3rd November, 1989, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Bhowra North Colliery of M/s. BCCL in dismissing Shri Surendra Prasad, Miner/Loader w.e.r. 26-7-88 is justified? If not, to what relief the workman is entitled?"

2. The case of the management of Bhowra (North) Colliery of M/s. BCCL, as disclosed in the written statement-cum-rejoinder, details apart, is as follows :

The present reference is not maintainable and it is liable to be struck down. Surendra Prasad, workman concerned, was issued with a chargesheet dated 21-3-1986 after the management had received information that he secured employment in M/s. BCCL fraudulently. He was charged on two counts, viz., having committed misconduct of (i) theft, fraud or dishonesty in connection with Company's business and property and (ii) giving false information regarding name, father's name, home address etc. at the time of employment under Clause 27(2) and 27(17) of the Certified Standing Order of the colliery. He submitted his reply dated 31-3-1986 to the chargesheet which was found to be unsatisfactory. A regular domestic enquiry was held observing the principle of natural justice. The concerned workman participated in the domestic enquiry. He was given full opportunity to defend himself. After completion of enquiry the Enquiry Officer submitted his report holding him guilty of the charge framed against him. The report of the Enquiry Officer was considered by the Agent, Bhowra (North) O.C.P. He accepted the findings of the Enquiry Officer. Considering the gravity of misconduct, he came to the conclusion that this was a fit case for the dismissal of the workman concerned from service. The case was also submitted before the General Manager of Bhowra Area of M/s. BCCL. He also accorded his approval for dismissal of the

concerned workman from service and accordingly was dismissed from service by letter dated 26-7-1988 issued by the Agent, Bhowra (North) O.C.P.

3. The case of the concerned workman, as appearing in the written statement submitted on behalf of the sponsoring union, Bihar Mines Lal Jhanda Mazdoor Union, briefly stated, is as follows :

The concerned workman, Surendra Prasad, was appointed as miner/loader of Bhowra (North) colliery of M/s. B.C.C. Ltd. by the General Manager, Bhowra Area No. XI. He was working continuously and with unblemished record of service. The management of Bhowra (North) Colliery issued a chargesheet dated 21-3-1986 under Clause 27(2) and 27(17) of Certified Standing Orders of the colliery for alleged mis-conduct that he submitted a false certificate before his appointment in regard to his relation with Arjun Mahato of Gourkhuti, Bhowra and thus secured employment in M/s. B.C.C. Ltd. by fraudulent manner. He was suspended pending domestic enquiry. He submitted his reply dated 21-3-1986 to the charge-sheet denying the allegations contained in the charge-sheet. Although as per provisions of Certified Standing Orders applicable to the colliery a workman cannot be suspended for more than ten days pending enquiry, the concerned workman was kept under suspension for more than one year during which he was not paid any subsistence allowance. The charge levelled against him that he had wrongly described himself as a nephew of Arjun Mahato of Bhowra before his appointment in the certificate submitted by him does not come within the purview of alleged mis-conduct under clauses 27(2) and 27(17) of the Certified Standing Orders. The mis-conduct enumerated in the Certified Standing Orders by implication means that it should be committed during the subsistence of relationship of employer and employee and any mis-conduct alleged to have been committed by the workman before his appointment cannot invite any disciplinary action. Anyway, the approval of the General Manager of the colliery was not taken before his dismissal from service. The Agent, Bhowra (North) O.C.P. has no legal authority to dismiss him from service as he did not appoint the concerned workman. In the circumstances the action of the management in dismissing the concerned workman from service with effect from 26-7-1988 is quite illegal and unjustified and the union has prayed his re-instatement in service with full back wages.

4. In the rejoinder to the written statement of the union, the management has stated that the concerned workman indulged in utter falsehood and misrepresentation for securing employment in M/s. BCC Ltd. The management has denied that he was not paid any subsistence allowance and his claim on this score by L.C. Application No. 6 of 1989 before Central Govt. Industrial Tribunal No. 2, Dhanbad has been dismissed. He was paid due subsistence allowance. The General Manager of the Area approved the dismissal order of the concerned workman from service and the Agent dismissed him from service.

In rejoinder to the written statement of the management, the union has asserted that the present reference

is maintainable and reiterated that the domestic enquiry was not conducted fairly and properly in accordance with the principles of natural justice. The union has further denied the other contentions of the management impinging on the claim of the concerned workman.

5. At the instance of the management the question of fairness and propriety of the domestic enquiry was considered as preliminary issue. In the course of domestic enquiry the management laid in evidence the entire proceedings of the domestic enquiry which was marked Exts. M-1 to M-15. By order dated 16-4-1991 it was decided that the domestic enquiry was held fairly and properly. Thereafter the case was heard on merit.

6. Admittedly, Surendra Prasad was appointed as miner/loader by appointment letter dated 2/3-8-83. It appears from the charge-sheet dated 21-3-86 (Ext. M-3) that the management acquired two parcels of land measuring 27.32 Acres and 3.11 acres situated in the vicinity of 27 Incline and 30-A Incline of Bhowra Area. It appears from the certificate issued by the Mukhiya (Ext. M-11) that the management purchased the land from Arjun Mahato.

It is alleged by the management that before appointment letter was issued, the concerned workman submitted a relationship certificate with attested photograph in which he declared himself as the nephew Arjun Mahato of Gourkhuti which he is not and that he is a nephew of Chotan Ram, Office Peon, Area Office, Bhowra. Consequent upon disclosure of this information the management issued the following chargesheet to the concerned workman (Ext. M-3):

"It has been reported that you got into employment at Bhowra Area against acquisition of land situated in the vicinity of 27 Incline and 30-A Incline at Bhowra Collieries measuring 27.32 Acres and 3.11 acres respectively.

Before the appointment letter were issued, you had submitted a relationship certificate with attested photograph addressed to the Administrative Officer, Bhowra Area Office, in which you have declared yourself as the nephew of Arjun Mahato of Gourkhuti, Bhowra though you are not related to him and in fact you are the nephew of Sri Chhotan Ram, Office Peon, Area Office, Bhowra.

The above acts of misconduct under the provisions of the Standing Orders applicable to the Colliery which reads as follows :—

Clause 27(2) : Theft, fraud or dis-honesty in connection with Company's business and property.

Clause 27(17) : Giving false information regarding name, father's name, home address etc. at the time of employment.

You are hereby asked to show-cause within 48 hours on receipt of this letter as to why disciplinary

action shall not be initiated against you for the above misconduct.

You will remain suspended pending enquiry and decision into the matter."

The concerned workman submitted his reply to the charge-sheet (Ext. M-4) which is set forth here-inbelow :

"In reply to the above charge-sheet I am submitted as under :—

1. That the charged levelled against me in the above charge sheet is totally false and motivated.

All the particulars required to be given by me at the time of my appointment have been produced which are all correct.

It appears that the charges have been made without any proper enquiry being made at the intention of some one inimical to me.

I may state that I have not committed any misconduct under clause 27(2) and 27(17) of the certified standing orders applicable to the colliery.

You are, therefore, requested to drop the charges against me and to allow me to resume my duties forthwith for which I shall be very much thankful to you."

7. The main allegation in the chargesheet is that the management acquired two parcels of land in the vicinity of Bhowra Colliery and that the concerned workman, before the letter of appointment was issued, submitted a relationship certificate with attested photograph to the Administrative Officer, Bhowra Area Office, in which he declared himself as the nephew of Arjun Mahato of Gourkhutty, Bhowra, though he is not related to him and that in fact, he is the nephew of Sri Chhotan Ram, Office Peon, Area Office, Bhowra. According to the management, this act of the concerned workman amounts to misconduct under Standing Orders applicable to the colliery and that he committed misconduct of theft, fraud or dishonesty in connection with Company's business and property and giving false information regarding name, father's name, home address etc. at the time of employment, under Clauses 27(2) and 27(17) of the Standing Orders.

Shri J. Prasad, Senior Enquiry Officer was the sole witness for the management in domestic enquiry. He has stated that the concerned workman was appointed on the basis of 'land looser' which by implication means on the basis of 'land looser scheme' and that he has shown as the nephew of Arjun Mahato, the land owner, which is wrong. He has further stated that it has been found that he is the nephew of Chhotan Ram and that he was appointed on the basis of false information.

Clause 27(17) of the Certified Standing Orders of the Colliery produces as follows :

"Giving of false information regarding his name, age, father's name, qualification or previous

service at the time of employment will constitute a misconduct for a workman".

Shri J. Prasad has stated that letter of appointment was issued to the concerned workman as nephew of Arjun Mahato, but this letter of appointment was not produced in the domestic enquiry or before this Tribunal. There is nothing on evidence to indicate that he provided false information regarding his name, age, father's name etc. in any document at the time of his employment. That being so, I have no hesitation to hold that charge on this count must founder on the ground.

8. The only other charge of misconduct left for consideration is whether the concerned workman has committed misconduct of theft, fraud or dishonesty in connection with company's business or property.

I have already pointed out before that the management acquired land of Arjun Mahato obviously for mining purpose. A certificate with photograph of the concerned workman attested by Mukhiya declaring him to be the nephew of Arjun Mahato was produced before the Administrative Officer of Bhowra Area before his appointment. It has been emphatically alleged in the chargesheet against the concerned workman that he submitted this certificate before the Administrative Officer, Bhowra Area office. The concerned workman has not specifically denied this position in his reply to the chargesheet. Shri J. Prasad has emphatically stated that the certificate with photograph was issued by the Mukhiya and submitted by the concerned workman at the time of his appointment. Shri Prasad has not been cross-examined on this point. The concerned workman has also not denied this position. In the circumstances, I come to the conclusion that the concerned workman submitted the certificate of Mukhiya (Ext. M-11) before the management at the time of his employment. The certificate discloses that the concerned workman appears to be the nephew of Arjun Mahato. But there is no evidence to indicate that the concerned workman is the nephew of Arjun Mahato. It has been alleged in the charge-sheet that he is the nephew of Chhotan Ram, Office Peon of Bhowra Area office. This has not been denied by the concerned workman either in his reply to the charge-sheet or in his evidence in domestic enquiry. He belongs to a caste different from the cast Arjun Mahato belongs to. From this point of view he cannot be the nephew of Arjun Mahato.

9. It has been proved by evidence that he produced the certificate issued by the Mukhiya. This certificate discloses him to be appearing as nephew of Arjun Mahato. He secured employment in M/s. B.C.C. Ltd. by employing this certificate. But he is not the nephew of Arjun Mahato; he the nephew of Chhotan Ram, Office Peon of Bhowra Area office. Thus, it is seen that he secured employment in M/s. B.C.C. Ltd. by committing dishonesty and misrepresentation. Had the management got mind of the fact that he is not the nephew of Arjun Mahato whose land had been acquired by the management for the purpose of its business he could not have secured employment. Hence, I come to the conclusion that he committed dishonesty with respect to the company's property or business. This being the position,

I hold that the management is justified in dismissing him from service.

In the pleading the sponsoring union has taken the plea that the Agent of the colliery was not competent to dismiss the concerned workman from service as he was appointed by the General Manager of Bhowra Area. But this point has not been canvassed by Shri J.D. Lal either during the course of hearing on preliminary issue or at the time of final hearing. Besides, it is the definite case of the management that the concerned workman was dismissed from service with the approval of the General Manager of the Area. That apart, the dismissal letter itself indicates that it was issued with the approval of the competent authority (Ext. M-15).

10. Accordingly, the following award is rendered—the action of the management of Bhowra North Colliery of M/s. B.C.C. Ltd. in dismissing Sri Surendra Singh, Minor Loader with effect from 26-7-1988 is justified.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer
[No. L-20012/185/89-IR(Coal J)]

का.प्र. 2986. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसूचन में, केन्द्रीय सरकार, गै. सो.सो. एल. के प्रबन्धन से संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकारण (सं.-2), धनबाद के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 7-11-91 को प्राप्त हुआ था।

S.O. 2986.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. C.C.L. and their workmen which was received by the Central Government on 7-11-91.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 23 OF 1991

PARTIES :

Employers in relation to the management of M/s. Central Coalfields Ltd. and their contractors M/s. Binod Kumar & Brothers and M/s. Jai Bajrang Enterprises and their workmen.

APPEARANCES :

On behalf of the workmen—Shri Keshaw Singh Yadav Area Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri Mahendra Narayana Singh, authorised representative.

STATE : Bihar INDUSTRY : Coal
Dated, Dhanbad, the 28th October, 1991

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(181)/90-I.R. (Coal-I), dated, the 15th January, 1991.

SCHEDULE

“Whether the action of the contractors namely M/s. Binod Kumar & Brothers and M/s. Jai Bajrang Enterprises, Contractors Kathara Washery of CCL at & P.O. Phusro Distt. Giridih by not making payment of wages amounting to Rs. 1,40,110.45 for the period from March, 87 to April 87 to S/Sri Mohan Manjhi and 169 others contractual workmen engaged in slurry Pond of Kathara Washery P.O. Kathara, Distt. Giridih is justified? If not, to what relief the workmen concerned are entitled?”

In this case both the parties appeared before me and filed a Joint Compromise petition. I heard both the parties on the said petition of compromise and do find that the terms contained herein are fair, proper and beneficial to both of them. Accordingly I accept the same and pass an Award in terms thereof which form part of the Award as Annexure.

B. RAM, Presiding Officer

[No. L-20012/181/90-IR (Coal-I)]

K. J. DYVA PRASAD, Desk Officer

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

REFERENCE CASE NO. 23 OF 1991

Employers in relation to the management of Central Coalfield Ltd. & others.

Vs.

Their workmen.

The humble joint compromise petition on behalf of all the parties involved in the dispute.

That S/Shri Mohan Manjhi & 169 others concerned workmen have been working in the slurry clearing jobs since long within the precinct and premises of Kathara Washery of M/s. C. C. Ltd. The management has been disbursing their wages through different intermediance for different periods.

That during the period March, 1987 to April, 1987 the workmen were not paid their monthly wages which resulted in the present reference.

That during the pendency of the dispute the management have agreed to pay the concerned workmen their due wages through intermediaries namely M/s. Binod Kumar & Brother and M/s. Jai Bajrang Enterprises.

That the dispute resolved on the following terms & conditions.

Terms of settlement :

It is agreed to pay the concerned workmen namely S/Shri Mohan Manjhi & 169 others as per reference 84,000.00 (Eighty four thousand) only.

That M/s. Binod Kumar & Brothers shall pay Rs. 42,000.00 (Forty two thousand) where as M/s. Jai Bajrang Enterprises shall pay Rs. 42,000.00.

That the aforesaid total amount of Rs. 84,000.00 (Eighty four thousand) shall be paid to the concerned workmen in equal share the amount shall be distributed amongst the concerned workmen equally.

It is agreed to paying the concerned workmen the amount mentioned above within 7 days of the signing of the settlement.

Both parties also agreed to file the Joint Compromise petition before the Hon'ble Court for disposing of the pending reference case as per terms of the settlement.

Both parties prays before your Honour to pass an Award in terms of the settlement.

Signature of Union's Representative Signature of the managements Representative

Witness :

1. For Binod Kumar & Brothers
For M/s. Jai Bajrang Enterprises.
2. Sd/-

का. घा. 2937 :- कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-11-91 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले प्रवृत्त की जा चुकी है) के उपबन्ध पंजाब राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :-

क्रम संख्या	क्षेत्र का नाम	हवस्त संख्या	जिला
1.	मानसा	76	भटिंडा
2.	ठुडियावाली	57	भटिंडा

[सं. एस-38013/35/91-एस एस -- 1]

S.O. 2987.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th November, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of section (1) of section 76 and 77, 78, 79 and 81] which have already been brought into force of the said Act shall come into force in the following areas in the State of Punjab namely :-

S. No.	Name of the Centre	H.B. No.	District
1.	Ma isa	76	Bhatinda
2.	Thuthianwali	57	Bhatinda

[No. S-38013/35/91-SSI]

का. घा. 2938 :- कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-11-91 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की

जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :-

"मालापुरम जिले में इरनाड तालुक के बजहायूर राजस्व ग्राम के अन्तर्गत आने वाले क्षेत्र"।

[सं. एस-38013/34/91-एस एस -- 1]

S.O. 2988.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th November, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76 and 77, 78, 79 and 81 which have already been brought into force of the said Act shall come into force in the following areas in the State of Kerala namely :-

"The area within the revenue village of Vazha-yur in Ernad Taluk of Malappuram District."

[No. S-38013/34/91-SS.I]

का. घा. 2939 :- कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 16-11-91 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध हिमाचल प्रदेश राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :-

क्रम संख्या	राजस्व ग्राम का नाम	हवस्त संख्या	जिला
1.	गोंकपुर	98	सिरमौर
2.	धोलाकुंधा	158	सिरमौर
3.	भाटावाली बाटा मंडी	129	सिरमौर
4.	मिहारवाली	146	सिरमौर
5.	माजरा	149	सिरमौर
6.	वेवी नगर	115	सिरमौर
7.	सतीवासी	130	सिरमौर
8.	पुरुवाली	59	सिरमौर
9.	पट्टी नाथा सिंह	112	सिरमौर
10.	रामपुर षाट	110	सिरमौर
11.	राजवन	89	सिरमौर
12.	भगरनी	100	सिरमौर
13.	मंगलवाली करतारपुर	90	सिरमौर
14.	पाउंडा साहिब	116	सिरमौर
15.	सूरजपुर	134	सिरमौर
16.	शिवपुर	102	सिरमौर
17.	केदारपुर	119	सिरमौर
18.	पातलियां	133	सिरमौर
19.	बागल	104	सिरमौर
20.	शूब खेड़ा	113	सिरमौर
21.	गिरी नगर गांव रामपुर माजरा	156	सिरमौर

[संख्या एस. 38013/33/91-एस. एस. 1]

S.O.2929.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th November, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force and Chapters V and VI (except sub-section (1) of section (1) of sections 76 and 77, 78, 79 and 81 which have already been brought into force of the said Act shall come into force in the following areas in the State of Himachal Pradesh namely :—

S. Name of Revenue Village No.	Had Bast No.	District
1. Condpur	98	Sirmour
2. Daula Kuan	158	Sirmour
3. Bhata-wali-Bata Mandi	129	Sirmour
4. Mishervala	146	Sirmour
5. Majra	149	Sirmour
6. Devi Nagar	115	Sirmour
7. Satiwala	130	Sirmour
8. Puru Wala	59	Sirmour
9. Patti-Natha Singh	112	Sirmour
10. Rampur Ghat	110	Sirmour
11. Rajban	89	Sirmour
12. Bhungrani	100	Sirmour
13. Mugalwala Kartarpur	90	Sirmour
14. Panta	116	Sirmour
15. Surajpur	134	Sirmour
16. Shivpur	102	Sirmour
17. Kedarpur	119	Sirmour
18. Patilian	133	Sirmour
19. Bagran	104	Sirmour
20. Shubkhera	113	Sirmour
21. Giri Nagar Revenue Village Rampur Majri	156	Sirmour

[No. S-38013/33/91-SS. I]

का. भा. 2990:—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रिय सरकार एतद्वारा 16-11-91 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपरान्त हिमाचल प्रदेश राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

राजस्व ग्राम का नाम	हदबस्त संख्या	जिला
धर्मपुर पोस्ट बदरी	193	सोलन

[सं. एस-38013/36/91-एस. एस. -I]

New Delhi, the 13th November, 1991

S.O. 2990.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th November, 3034 G1/91—18

1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76, and 77, 78, 79 and 81 which have already been brought into force of the said Act shall come into force in the following areas in the State of Himachal Pradesh namely :—

Name of Revenue Villrg	Hadbast No.	District
Dharmpur Post-Baddi	193	Solan

[No. S-38013/36/91-SS.I]

का. भा. 2991:—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रिय सरकार एतद्वारा 16-11-91 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की

जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्ति की जा चुकी है) के उपबन्ध पंजाब राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

“जिला फरीदकोट के अन्तर्गत राजस्व ग्राम मलौट हदबस्त संख्या 156 के क्षेत्र”।

[सं. एस. 38013/32/91--एस. एस. I]

S.O. 1991.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th November, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76 and 77, 78, 79 and 81 which have already been brought into force of the said Act shall come into force in the following areas in the State of Punjab namely :—

“Area comprising the revenue village Malout H.B. No. 156 in the District Faridkot.”

[No. S-38013/32/91-SS.I]

का. आ. 2992 :—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एखनद्वारा 16-11-91 को उस तारीख के रूप में नियत करती है, जिसकी उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्ति की जा चुकी है) के उपबन्ध कर्नाटक राज्य के निम्नलिखित क्षेत्र में प्रावृत्त होंगे, अर्थात् :—

राजस्व ग्राम या नगरपालिका सीमा	होबली	तालुक	जिला
कमिजे-ग्राम पुत्तूर-टी. एस. सी. शान्ति गौड बन्नूर गांव चिक्कामुन्नूर गांव कोडियमबादी मंडल कबाक्का		पुत्तूर	दक्षिण कर्नाटक
	उप्पीनगादी	पुत्तूर	दक्षिण कर्नाटक

[सं. एस.-38013/37/91-एस. एस. I]

जे. पी. शुक्ला, अवर सचिव

S.O. 1992.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th November, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76 and 77, 78, 79 and 81 which have already been brought into force of the said Act shall come into force in the following areas in the State of Karnataka namely :—

Name of the Revenue Village or, Municipal limits	Hobli	Taluk	District
Kaminji—Village Puttur—T.M.C. Shanthiga du Aryappu Bannur—Village Chikka mudnoor Village Codiambadi Mandala Kabakka	Puttur Uppinangadi	Puttur	Dakshina Kannada

[No. S-38013/37/91-SS. I]

J.P. SHUKLA, Under Secy.

नई दिल्ली, 15 नवम्बर, 1991

New Delhi, 15th November, 1991

का. आ. 2993 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-11-91 को प्राप्त हुआ था।

S.O. 1993.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Central Bank of India and their work-

men, which was received by the Central Government on the 6-11-91.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL

Industrial Dispute No. 59/89

In the matter of dispute.

BETWEEN

Shri Ramendra Dhvaj Central Bank Workers
Organisation 13 Lakshmi Nagar, Suraj Kund
Road, Meerut 250001.

AND

The Regional Manager, Central Bank of India,
195 Delhi Road, Meerut.

AWARD

1. The Central Government Ministry of Labour vide its notification no. L-12012/203/88-D.2(A) dt. 20-2-89 has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Central Bank of India in terminating the services of S/Shri Suresh Chand, Rajendra Mohan, Nilam Kumar and Anand Mohan and not considering them for further employment while recruiting fresh hands under sec. 25H of the I.D. Act is justified? If not to what relief are the concerned workmen entitled?”

2. There are 4 workmen in this case out of them three namely, S/Shri Rajendra Mohan, Anand Mohan and Nilam Kumar moved an application on 6-9-91 that their case be treated as withdrawn since they were hopeful of getting regular employment in the bank

3. On 29-8-90 Shri Ramendra Dhvaj the authorised representative for the 4 workmen namely Shri Suresh Chandra moved an application in which it was alleged by him that the management of the bank was willing to keep the workman in service.

4. 6-9-91 was date fixed for orders in the case but despite notice neither Shri Ramendra Dhvaj nor Shri Suresh Chand workman appeared in the case. In view of the facts alleged by Shri Dhvaj in his application dt. 29-8-90 it would be just if his case is treated as closed.

5. Hence in the above circumstances it is held that there no longer exist any dispute between the parties. Accordingly a no dispute award is given in the case.

6. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-12012/203/88-DII(A)]

V. K. VENUGOPALAN, Desk Officer

नई दिल्ली, 18 नवम्बर, 1991

का. आ. 2994 :—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्रम व्योरो कार्यालय, चण्डीगढ़ में नियुक्त अनुभाग अधिकारी श्री भगत राम को 6 नवम्बर, के लिए उत्प्रवासी मंडली, चण्डीगढ़ के सभी कार्यों को करने के लिए प्राधिकृत करती है।

[संख्या ए. 22012/1/91 उत्प्र.]

आर. के. गुप्ता, अवर सचिव

New Delhi, the 18th November, 1991

S.O. 2994.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri Bhagat Ram, Section Officer in the Office of Labour Bureau, Chandigarh to perform all functions of Protector of Emigrants, Chandigarh in the Office of Protector of Emigrants, Chandigarh on 6th November, 1991.

[F. No. A-22012/1/91-Emig]

R. K. GUPTA, Under Secy.

